ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W. F. A. TURGEON
Commissioner

A. S. Whiteley, Secretary

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130th, 131st, 132nd, 133rd, 134th, 135th Days

ARGUMENT

J.C. McRuer, K.C.

ROBERT SRYDIE
OFFICIAL REPORTER
TORONTO
CANADA

ROYAL COMMISSION ON THE TEXTILE INDUSTRY

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ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

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ONE HUNDRED AND THIRTIETH DAY

(Monday, March 15,1937)

A R G U M E N T

Robert Brydie,
Official Reporter.

ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

A.S. Whiteley, Secretary,

Appearances:

J.C. McRuer, K.C. and E. Beauregard, K.C.	Commission Counsel,
R.L. Kellock, K.C.	For Primary Textile Co.
C.G. Heward, K.C. Aime Geoffrion, K.C. and C.T. Ballantyne,	For Dominion Textile Company.
S.G.Dixon, K.C.	For Courtaulds, Limited,
L.A. Forsyth, K.C.	Canadian Celanese Ltd. and Canadian Silk Products Limited.
Francois Lajoie, K.C.	For Wabasso Cotton Co.
A.S. Bruneau, K.C. and G.A. Campbell, K.C.	For Canadian Cottons.

-- oOo --

Ottawa, Ont.

Monday, March 15, 1937.

The Commission resumed at 2 p.m.

ARGUMENT BY MR. BEAUREGARD IN REPLY

M. BEAUREGARD: M. le Président, en l'absence de mon confrère, M. J.C. McKuer, mes confrères des industries ont bien voulu interrompre leur argument. Devant une telle marque de bonté je tiens à ce que mon appréciation soit rendue publique. Je serai assez bref dans ma réponse, afin de ne pas provoquer, à présent, de réplique. Je vais donc me tenir dans des lignes assez générales.

La première question que je voudrais toucher, cet après-midi, est celle des relations industrielles, laquelle est supposée être la question du jour, la question la plus vitale, à l'heure qu'il est.

J'ai parcouru avec beaucoup de soin les arguments de mes savants amis, les arguments écrits; j'ai également écouté attentivement leurs arguments oraux. Je les ai lus et entendus au sujet des relations industrielles,- ce qui se réduit à très peu de chose. Sauf erreur, j'ai cru que les représentants, en autant qu'ils le sont pour telle ou telle industrie en on dit rien du tout. Les représentants de la Dominion Textile ont parlé plus longuement au sujet de cette relation de la compagnie avec ses employés. Cependant, même pour ce cas-là, les relations de la compagnie, sous la réserve faite dans une déclaration très expresse du gérant-général, M. G.E. Gordon, contenue dans une longue lettre, laquelle j'aurai l'occasion de lire ici

en outre elle se trouve dans les dépositions, - se réduisent, sauf erreur, à un comité de boutique, un comité de boutique dont il est question à propos de la Montmorency.

Les évènements actuels, nous ne pouvons pas les ignorer; car ils signalent, me semble-t-il, d'une façon très précise, plutôt l'absence de contact que d'habiles moyens de contacts entre patrons et ouvriers. On a l'intention de dire ici, que les unions ouvrières sont, jusqu'à un certain point, un médium de mauvaises ententes, de grèves et autres choses comme cela. Il me semble lire dans les journaux, depuis quelque temps, que les grèves sont produites par l'absence d'unions, qu'elles éclatent un peu comme une combustion spontanée. Le comité de boutique de la Montmorency est né, - apparamment à la suite d'un accord, - est né suivant une grève, laquelle parait être une grève survenue sans l'intervention d'une union. Le problème est-il avec l'union, ou la fabrication de l'union, ou avec les agitateurs dans une union.

La grève de Sherbrooke parait être survenue, elle aussi, comme une combustion spontanée. Elle fut conduite par des étrangers même, que l'on à qualifiés d'agitateurs. Elle a été éclose du lot de grèves en présence desquelles nous nous trouvons aujourd'hui.

Il me semble que les évènements, par eux-mêmes, signalent déjà le danger qui existe dans l'absence des relations industrielles; c'est-à-dire, d'une organisation qui tient en contact continuel les patrons et les ouvriers. Mon confrère, M. Ballantyne, au sujet des grèves et des agitateurs, a eu la parole assez sévère contre leur droit à la vie dans le temps. Je n'ai pas

le texte de ce qu'il a dit dans le temps, mais je crois être obligé de faire une mise au point en raison de la façon dont un journal, le Canada de Montréal, a rapporté les remarques de M. Ballantyne, dans un numéro du 12 mars 1937.

Voici comment se lit le texte du Canada, - en page 12:

> "Au juge Turgeon, qui se demandait pourquoi il n'y avait pas au Canada de ces unions qui, en Angleterre par exemple, s'entendent si bien avec les exploitants des textiles pour la conclusion de conventions collectives, Me Ballantyne expliqua qu'en Angleterre le problème ouvrier était grandement simplifié au fait que l'industrie textile y est pour ainsi dire concentrée dans une seule région, et encore dans une région urbaine."

C'est même un habile texte, lequel vient d'un mémoire qui parait dans un rapport assez arrogant. C'est une première erreur.

M. BALLANTYNE: En Angleterre, vous avez une industrie à Manchester...

M. BEAUREGARD: D'après mon souvenir, il attribue à M. Ballantyne, ces observations que je viens de répéter.

M. BALLANTYNE: Non pas que je les ai avancées moi-même.

M. BEAUREGARD: Je continue le rapport, faisant toujours parler M. Ballantyne:

> "Au Canada, cette industrie est établie un peu partout et aussi bien dans les centres ruraux que dans les centres urbains.

Et puis, au Canada, les employés des filatures ne semblent guère s'entendre sur le choix d'une union et beaucoup d'entre eux ne sont unionistes que pour être unionistes, et non pour améliorer leur sort et celui de leurs camarades."

Alors, il ne faudrait plus en parler. Je ne suis pas très sûr que M. Ballantyne ne se soit pas trahi.

M. BALLANTYNE: Je n'ai pas parlé autant que cela. Là, je suis protégé. Il faudrait arriver à quelque chose de plus précis.

M. BEAUREGARD CONTINUE LA LECTURE:

"Me Ballantyne ne croit pas qu'un seul des chefs unionistes qui ont témoigné à l'enquête connaisse à fond le travail de l'industrie textile."

Celà, c'est encore pareil et bien large. Je ne suis pas sûr que M. Ballantyne ait dit celà, Voici qu'il fait une correction:

"Le juge Turgeon lui objecte qu'on ne saurait mettre en doute la sincérité de M. L'abbé Coty," je donne le nom tel qu'il apparait, mais c'est "Coté".

M. BALLANTYNE: C'est lui-même qui a dit celà.

M. BEAUREGARD CONTINUE LA LECTURE:

"mais que franchement les autres chefs qui ont paru devant lui ne l'ont guère impressionné."

Cette partie, je vais la répéter.-

M. BALLANTYNE: Dans le temps il y a eu une correction.

M. BEAUREGARD: Vousseriez obligé de soumettre la date à laquelle la correction a été notée. Si celà est ax inexact, M. Ballantyne doit s'en occuper lui-même.

Je vais toujours parler de la présente conclusion: "franchement les autres chefs qui ont paru devant lui ne l'ont guère impressionné." Celà n'a même pas impressionné M. Ballantyne.

M. BALLANTYNE: Qui a fait ce rapport?

M. le PRESIDENT: Celà doit être la Presse Canadienne. C'est peut-être une mauvaise traduction. Il faudrait le dire à qui de droit pour le faire corriger.

M. BALLANTYNE: Il y a quelqu'un qui m'a trahi. Je dis celà parce que c'est ce qu'il a dit. Si cette partie est attribuée à la présente commission j'ai le droit de porter à la connaissance de la commission que la chose est absolument inexacte et qu'à mon sens elle ne peut pas rester sans correction.

M. LE PRESIDENT: Vous vous en chargerez, et vous chargerez le Secrétaire pour que la correction soit faite aussi publique.

M. BALLANTYNE: Remettre toute une copie.

M. LE PRESIDENT: Telle qu'elle doit être corrigée. Je ferai le nécessaire. Je ferai ce qu'il faut de ma part.

M. BALLANTYNE: Pour que ce soit conforme à l'ordre de la Cour. J'ai été surpris de voir ce rapport-là. A ce moment là, si mon souvenir est fidèle, il y avait un représentant de la Presse Canadienne, et un journaliste de la Presse. Dans la Presse il n'est pas dit de cette façon.

M. LE PRESIDENT: Alors, si le rapport dans la Gazette est exact, vous pourrez leur en envoyer une copie et leur dire que voilà à quoi il faut s'en tenir. D'ailleurs, tout s'est passé en anglais.

M. BEAUREGARD: Ce que je veux faire, qu'il

plaise à la Cour, c'est un relevé de la nécessité des relations industrielles. Il s'agit des unions, de personnes, agissant comme médium entre les patrons et les ouvriers. Celà revient, à mon sens, à ce qui fut proprement dit, que la compagnie Dominion Textile est, en somme, la seule qui oserait nier les relations industrielles. Je dis, sauf erreur, que le procureur de cette industrie n'en dit pas un mot.

J'ai lu dans le dossier un article intitulé "Welfare Plan for Canadian Companies", et qui est rapporté en pages 42 et 43 d'un journal industriel du Canada, publié à Toronto, numéro de Juin 1936. Cet article a trait particulièrement au système de pension des employés et également au service médical, ou espèce de classe de service médical d'urgence établi par des médecins de la St-John Ambulance Association. Le paragraphe qui nous intéresse est le dernier de l'article. Il se lit comme suit:

> "In a company such as the Dominion Textile Co., who employ a large number of female workers, figures of labour turnover do not mean anything in particular, since marriages are frequently causing withdrawals from the service. The Company, however, have been free from any serious labour trouble since 1919, and this seems to be attributable to the manner in which they look after their employees' welfare."

M. BALLANTYNE: Ce dernier paru n'a pas été lu devant Votre Seigneurie. Je n'ai pas été capable de le comprendre moi-même. Je verrai à ce qu'il y en a un autre pour le secrétaire au sujet de toute l'affaire. Je ne vois pas ce que peut faire le fait qu'une femme

ou un mari ait aucune relation avec un autre canadien.

M. BEAUREGARD: Je comprends que le document a été produit.

M. PRESIDENT: Je l'ai lu excepté ce paragraphe là.

M. BEAUREGARD: Pendant que je le lisais moi-même, je suppose que je n'ai pas remarqué que mon savant ami ne le produisait pas.

M. LE PRESIDENT: L'autre jour M. Ballantyne a dit qu'il ne le lisait pas pour une raison quelcomque. Je n'ai pas exigé qu'il le lise.

M. BEAUREGARD: Monsavant ami ne prend pas l'avantage de ce paragraphe, s'il dit qu'il le répudie je l'abandonne moi-même.

A mon sens l'Employees' Welfare dépasse cela dé beaucoup. J'ai donné quelques exemples dans mon factum. Puis, nous en trouvons la mesure de l'effort de la Compagnie, parait-il, dané le factum de la Montreal Cotton, en page 27. Je lis ce qui suit:

> "The evidence given shows favourable working conditions."

La médication n'est pas pratiqués, là, actuellement, en dehors de ce qu'elle fut actuellement. Il y a un autre système de pension que celui de la Dominion Textile. Le service médical n'est pas payé par le compagnie bien qu'il soit fourni par le compagnie. "Cottages are supplied", celà ne veut pas dire que le logement est gratuit. Ils louent un certain nombre de maisons. Au cours de la preuve, en parcourant des assemblées des bureaux de direction, on a constaté que les directeurs se félicitaient entre eux que la construction des cottages" était une opération d'affaire et

même très intéressante. Il n'y a pas de sacrifice en ce qui concerne celà. - Les employés connaissent la base de leur salaire. On pourrait dire que le fait qu'une compagnie vantait ce fait-là, elle était condamée par d'autres compagnies. On voit même que l'on parle de conditions sanitaires. On dit qu'ils essaient. Tant mieux, - mais ce n'est pas depuis bien longtemps. Le gérant d'une compagnie établie dit qu'en 1931 et 1932 ils étaient à refaire le système sanitaire.

M. GORDON: Toutes les compagnies l'avaient, après 1930.

M. BEAUREGARD: "Special rooms have been constructed in certain compagnies, so that they may change or leave their clothes." - Je suis enchanté de celà, à cet endroit. Je désirerais que celà fut fait ailleurs. Comme je l'ai déjà dit, il me semble qu'une des conditions essentielles pour la santé des employés est qu'ils doivent changer de vêtements pour travailler. La chaleur intense et humide dans laquelle ils travaillent cause une sudation intense. Les employés sont obligés de reprendre jour par jour leurs vêtements, lesquels n'ont pas eu le temps de sécher, et leurs vêtements de rue sont laissés dans une condition humide ou froide. Ils devraient fournir une chambre à assécher, un asséchoir.

"Dining-rooms are provided." L'argument fait voir dans quelles compagnies. Je ne les blâme pas de donner des avantages aux ouvriers. Ces compagnies-là peuvent à bon droit se vanter de ces avantages. Sans signaler aucune compagnie en particulier, je n'ai aucun intérêt à le faire. Il me semble que toutes les compagnies devraient avoir à coeur de ces choses qui

après tout ne sont pas sichères. Toutes les compagnies peuvent procurer ces conditions. Maintenant, tout ce que je trouve c'est que je trouve qu'il n'y a pas de ressemblance enorme avec le Welfare. L'employé a autre chose que des conditions de relations industrielles.

Je relève dans la Gazette du 5 mars, 1937, que l'organisation connue comme C.I.O. et qui fait tant parler d'elle aux Etats-Unis, l'organisation Welfase tourne son attention d'une façon définitive contre l'industrie du textile. On dit ici:

> "Mr. Hillman conferred here today with John L. Lewis, chairman of the C.I.O., and they went over the results of a conference Mr. Hillman held this morning in New York with Francis J. Gorman, the newly-chosen president of the United Textile Workers of America.
>
> As a result of those meetings it is likely that an early arrangement may be announced concerning the co-operation of the C.I.O. with its affiliate, the United Textile Workers, in a national organization campaign to reach every textile operative in the far-flung industry."

On voit un peu plus loin:

> "Those interested in the textile unionization programme have been gathering information for several months and believe that the time is ripe for such a movement. The chief union in the textile field is the United Textile Workers, with approximately 75,000 members.
>
> Under the plan now being discussed the textile territory would be divided into several

areas, each in charge of a regional director who would be the field marshal for the Textile Workers Organization Committee. Field men would act as organizers in the regions and volunteer organizers would be enrolled from sympathetic employees.

Possibility of apeaceful solution of the problem of collective bargaining in the textile industry would be stresed by the leaders of the unionization effort. They will point out that the U.S. Steel Corporation, citadel of the open shop, has now signed a union agreement and that the union's long struggle for collective bargaining in this corporation was achieved through conference, not by strikes."

Ceci, il me semble, est une poussée intentionnelle. Je me dis que c'est autant dans l'intérêt de l'industrie entière comme pour les conditions des ouvriers. Ce mouvement là me parait excessivement sérieux, et pour préciser il parait comme un nuage sombre à l'horizon. Les industries d'ici pourraient peut-être prendre certaines mesures pour y parer. Je relève, dans le même ordre d'idées, dans le journal la Gazette de ce matin, que le journal attache une très grande importance à ce mouvement du C.I.O.

On dit entr'autres choses:

"It is not to the interest of the Dominion that Canadien industrial labour should be dominated by United States organizations, which have their own purposes to serve and are, as has been shown, extremely powerful. This country's

economics are entirely separate and distinct from those of the United States and every effort should be made, by governmental and legislative action if necessary, to preserve that distinction. There is nothing to justify a common labour policy where the disparity of interest is so marked. Canada is a young country, with its own destinies, its own peculiar problems, its own trade routes, and it looks forward to a great development; surely the labour movement in Canada, which is an inseparable part of the industrial movement, should be directed by men whose motives, ambitions, and view points are wholly Canadian."

Je souscris à ce passage en particulier. Seulement, je note que l'on met en opposition à ce qu'on appelle "mouvement industriel" le mouvement ouvrier. Et, l'on signale beaucoup de raisons différentes qui peuvent y avoir entre le Canada et les Etats-Unis au point de vue des intérêts. Il est dangereux pour les ouvriers de ce pays qu'ils soient dominés par des ouvriers étrangers dont les intérêts peuvent varier.

En présence de ce paragraphe, lequel prend une mesure maintenant plus considérable, je considère la lettre de la Dominion Textile, lue ici devant la Cour. Je parle de la page 4 . Il s'agit d'une lettre adressée à M. Albert Coté, Président de la Fédération Catholique Nationale du Textile Inc. Il y a ainsi à cette page (produite comme pièce 1332):

"Vers la fin de votre lettre vous référez à une organisation ouvrière rivale, qui tente, dites-vous, d'enroler dans ses rangs nombre

de nos ouvriers. Nous ne pouvons en tant que compagnies faire des distinctions entre telle ou telle organisation ouvrière; nous ne pouvons traiter avec une et refuser de traiter avec l'autre; il nous faut toutes les acceuillir ou toutes les repousser. Nous pouvons croire que nos employés, s'ils désirent faire partie d'un certain groupement ouvrier seront mieux dirigés parmi les rangs d'une certaine organisation de leur choix... "

Je pense qu'il manque un mot là, après le mot "organisation". Mais, pour ne pas perdre la suite de l'idée je vais reprendre le paragraphe:

"Vers la fin de votre lettre vous ~~xxx~~ référez à une organisation ouvrière rivale, qui tente, dites-vous d'enroler dans ses rangs nombre de nos ouvriers. Nous ne pouvons en tant que compagnies faire des distinctions entre telle et telle organisation ouvrière; nous ne pouvons traites avec une et refuser de traiter avec l'autre; il nous faut toutes les accueillir ou toutes les repousser. Nous pouvons croire que nos employés, s'ils désirent faire partie d'un certain groupement ouvrier seront mieux dirigés parmi les rangs d'une certaine organisation de leur choix et nous ne pouvons et ne voulons les en empêcher. Le plus que nous pouvons faire est de leur expliquer la situation bien clairement, les conseiller, comme nous l'avons fait, leur démontrant qu'ils ont des droits bien définis en autant que leurs relationsavec la compagnie

sont concernées, droits qui demeurent les mêmes qu'ils fassent oui ou non partie d'une union ouvrière. Pour le reste, nous devons nous en remettre au bon sens de la majorité de nos employés, - un bon sens qui ne leur a pas fait souvent défaut par le passé et sur lequel nous croyons pouvoir compter pour la protection et l'avancement de leurs futurs intérêts ."

Ce paragraphe-ci, comme d'ailleurs la teneure entière, je pourais dire, de la lettre, est à l'effet que l'on ne veut pas reconnaitre une union locale, union entièrement canadienne, comme aucune autre. Ce que je signale à la commission parait être d'un intérêt vital. Ce refus d'acceptation de reconnaitre l'union, ou un corps organisé quelconque, ayant une consistance, - je ne parle pas d'un comité de boutique, est un manque car il empêche de faire des suggestions aux patrons d'usines.

M. GORDON: Ils ne sont pas membres d'unions.

M. BEAUREGARD: On considère le comité de boutique comme pouvant faire le rôle de l'union pour discuter les intérêts des ouvriers en général et certaines questions en particulier. En fermant la porte à celà les industries se rendent un mauvais service, rendent un mauvais service aux ouvriers, et en même temps au ~~apys~~ pays. Voici ce que peut en dire presque tout le monde; au moins les amis bien sincères des industries. Ils voient le danger énorme qui est aux portes du pays. La C.I.O. est considérée comme dangereuse. Les gens paraissent d'accord que le danger est imminent, et, qu'il peut envahir

facilement et amicalement le Canada. En présence de ce danger la Gazette elle-même le déclare.

M. LE PRESIDENT: Que veulent dire les trois lettres?

M. BEAUREGARD: La C.I.O. veut dire "Committe for Industrial Organization." Quant aux organisations industrielles...

M. BALLANTYNE: Elles ont plutôt rapport à la question difficile du contrat plutôt que de l'accord sur la loi du contrat.

M. LE PRESIDENT: Vous parlez de la lettre de M. Gordon. Dans cette lettre là ce sujet est traité. J'ai bien vu qu'il y avait une conception bien erronnée. Est-ce que ce qu'il ditlà se rapporte au contrat ou à autre chose?

M. BEAUREGARD: Cette lettre parle de toutes sortes de choses. Cette lettre a été produite comme exhibit 1332, et elle est de M. Gordon à M. Coté. L'objectif de M. Coté, comme il l'a été suggéré, est l'acceptation d'un contrat collectif. Je vais prendre le contrat collectif, mais pas maintenant.

M. LE PRESIDENT: Le point de celà, est la lettre formule.

M. BEAUREGARD: Le lettre formule, espèce de plan que nous avo ns eue ici. Et, à propos d'un refus dans la lettre de M. Coté, dans lequel cas, on condamnait ce plan de contrat que M. Gordon a écrit dans le paragraphe que nous avons lu. Meême plus que celà, même dans la lettre, votre Seigneurie se rappellera, que M. Gordon a référé M. Coté à l'avis qui a déjà été donné aux ouvriers de Sherbrooke, - avis qui a été

publié et qui a paru dans le journal La Tribune.

M. LE PRESIDENT: Je me souviens.

M. BEAUREGARD: En prenant cette lettre-ci, lettre pièce 1332, je pourrais dire que c'est la dernière volonté de la Dominion Textile à l'égard des unions et du syndicat catholique. Celà n'y est pas spécifiquement, mais à mon avis c'est comme je pourrais dire que c'était une chose admise. Il est soumis à un contrat collectif, pas précisément parce qu'on lui a demadé. Il reconnait les unions non pas parce qu'on lui a demandé. Et, en plus, la compagnie Dominion Textile, en parlant au nom des ouvriers et les soumettant au contrat collectif, ne peut pas le faire, au moins, sans que cela représente un grand nombre d'ouvriers. Cette démarche, n'a pas trompé beaucoup la Dominion Textile, parce qu'ils ont discuté en détail la clause du contrat comme ils la comprenaient. Entrant ensuite dans le domaine de l'union, M. Coté n'en a pas parlé. La Dominion Textile ne peut pas ne pas reconnaitre un peu en M. Coté un représentant d'une union ou fédération. On se rappellera ce qu'il y avait été dit.

M. LE PRESIDENT: Le contrat collectif suppose une organisation.

M. BEAUREGARD: M. Coté semble dire dans sa lettre, - nous avons ici, je crois, la lettre de M. Coté. Elle est en anglais par exemple.

M. BALLANTYNE: M. Gordon vient de dire qu'il cherche encore une entrevue avec M. Coté au sujet du contrat collectif. Comme c'est M. Gordon qui était ici pour quelque temps, alors...

M. LE PRESIDENT: Il a été bien assidue.

M. BEAUREGARD: Je l'avais gardée ici. Ce n'est pas ce qui empêche d'être efficace contre notre organisation.

M. BALLANTYNE: Celà a été publié dans le journal de Sherbrooke. La raison pour laquelle la compagnie a fait cet avis, c'est que quelques organisateurs de l'union en question ont dit de quelle manière que la compagnie elle-même voulait que ses employés fassent partie de cette union. C'est plus parce que la compagnie n'a pas pris parti contre l'union qu'elle a fait publier cet avis.

M. BEAUREGARD: Pour M. Gordon c'était assez clair. Je ne crois pas différer d'opinion sur ce qu'il a dit. Je voudrais, afin de rendre plus intelligente la réponse de M. Gordon, vous lire la lettre de M. Coté à M. Gordon. La lettre est en date du 25 janvier 1936. Elle est adressée comme suit:-

"Dominion Textile Company
Mr. Blair Gordon, Chairman,
710 Victoria Square,
Montreal."

Est-ce qu'il y a une traduction? A-t-elle été traduite?

M. LE PRESIDENT: Nous l'avons comme pièce 1332.

M. BEAUREGARD: Non pas comme je l'aie, mais en anglais. Le document dui est marqué, - le document officiel de la commission. -

Dear Sir,

With a true spirit of peace and conciliation, we have organized in this Province, the journey man in the Textile, Wool, and

Silk Industry.

Our Federation is reckoning today over 6,000 members divided in diverse particular unions.

The hour has come today, we think, when those unions should come closer to the employers and prove that our form of organization is more qualified than the International Trade Unions to safeguard the interests of both employees and employers."

Votre seigneurie, je vois par ce paragraphe que le débat sort directement de ce texte. Il y a lieu de reconnaitre l'union. Il n'y a pas lieu de changer d'organisation pour en faire partie d'une étrangère. C'est exactement le point que M. Coté fait sortie.

M. LE PRESIDENT: On ne parle d'aucune autre organisation que celle des Syndicats.

M. BEAUREGARD: Des Syndicats Catholiques.

M. LE PRESIDENT: Est-ce que les protestants peuvent entrer dans celles là?

M. BEAUREGARD: Je devrais dire que non.

M. GORDON: Je crois que c'est non.

M. BALLANTYNE: Il y a une section pour les employés qui font partie d'autres religions. Ici, les employés peuvent être incorporés dans des Syndicats spéciaux, mais qui lesquels sont affiliés à cette fédération.

M. BEAUREGARD: Nous pourrions probablement avoir unr charte des règlements du Syndicat.

M. GORDON: 95% des employés sont de la religion catholique.

M. BEAUREGARD: C'est-à-dire 85%.

M. LE PRESIDENT: Vous laissez une minorité assez importante et qui n'est pas négligeable.

M. BEAUREGARD: Aupoint de vue ouvrier, on n'y voit pas beaucoup d'inconvénients que l'association soit catholique. Il n'est pas nécessaire d'englober tous les ouvriers d'une usine ou d'une industrie. Il y en a toujours assez pour faire prévaloir le contrat collectif. Il n'est pas nécessaire que tous les ouvriers y adhèrent 100%, ou qu'il y ait une certaine quantité de catholiques ou non. M. Gordon dit que 85% sont catholiques, ce n'est pas dire qu'ils font tous partie du Syndicat Catholique. Je ne crois pas que la Dominion Textile fasse partie des Syndicats Catholiques. En vertue de la loi collective il n'y a pas une partie des ouvriers d'une part et tous les autres de l'autre, car en somme, c'est la même loi, la loi du contrat collectif.

La convention du contrat collectif n'affecte pas tous les ouvriers. Dans une usine ou industrie tous les ouvriers ne signifient pas leur consentement en ce qui concerne le contrat collectif du travail. Il n'en faut pas un certain pourcentage pour mettre le contrat en force.

M. LE PRESIDENT: Chaque ouvrier a droit au chapitre.

M. BEAUREGARD: Les ouvriers qui ne sont pas catholiques n'en sont pas exclus. La question qui se pose est pour savoir, s'ils bénéficient de cette convention, si la convention s'accorde avec eux.

M. LE PRESIDENT: Eux-mêmes ont quelque chose à dire comme, par exemple, dans l'arrangement.

Enfin, il y a des provisions de faites pour eux.

M. BEAUREGARD: Comme convention collective de travail, elle relève d'une loi de la province. C'est de même en Ontario comme dans Québec; il n'y a pas de question de confession. Il n'y a pas de question de revision.

M. LE PRESIDENT: Ce qui reste, c'est la loi.

M. BEAUREGARD: Il y a un mécanisme de pourvu, quand il s'agit d'un groupe d'ouvriers sans qualification confessionnale. On demande que la loi soit mise en force et les ouvriers consentent avec les industriels ou les patrons intéressés. Comme celà est pour la loi des Syndicats Catholiques. La loi agit sans égard à la confession ou religion des participants, - que les contrats soient faits par des catholiques ou des non catholiques.

M. LE PRESIDENT: Celà ne dépend pas de l'union, mais l'union s'occupe d'autre chose que des salaires.

M. BEAUREGARD: Voici la suite de la lettre de M. Coté:-

" In view of this we bring to your consideration the enclosed form of collective agreement. The proposed agreement takes into account the individual conditions of every shop, of its production and organization.

We hope our suggestion will receive from you a kind consideration.

Great efforts were made to organize Our Unions and we rely upon your co-operation for their maintenance.

One thing is beyond doubt. If we do not succeed in coming to an agreement within a

short notice, a good many of our members might loose confidence and look outside our ranks.

The United Textile Workers of America has already sent quite a number of letters inviting our members to join their Union.

If nothing is done presently, it will soon be too late to check the International Unions.

Relying upon your sincere co-operation with a social movement as ours to maintain peace and order within your Industry, we are,

Faithfully Yours,

(signed) ALBERT COTE
President "

M. Coté, par cette lettre, porte le débat directement sur la question vitale d'aujourd'hui. A savoir, si l'industriel doit faire quelque chose, et quelle figure et quelle résistance. Celà s'applique à toutes les industries et surtout à l'industrie textile, car tout indique que c'est surtout contre elle. La C.I.O.? M. Coté a apporté la discussion précisément sur ce point là. Tous ses écrits, ces lettres de la C.I.O. peuvent prendre une envergure extraordinaire. Ils ne cessent de venir porter celà à leur attention. Au jour d'aujourd'hui c'est le sujet du monde en général dans les affaires, - comme on le constate et comme je le lis ici dans la Gazette du 15 mars 1937:

"surely the labour movement in Canada, which is an inseperable part of the industrial movement, should be directed by men whose

motives, ambitions and view points are wholly Canadian."

C'est à cette lettre de M. Coté, qui va si directement au coeur du débat, que la Dominion Textile répond, comme je l'ai lu, à la page 4, (pièce 1332)

" Vous n'êtes pas sans savoir que dans certaines industries il est d'usage pour des Compagnies dans notre situation de ne pas engager eux-mêmes leurs ouvriers mais d'enroler les services d'un entrepreneur de main d'oeuvre à qui ils paient un montant convenu, soit à la semaine ou au mois, selon l'ouvrage à faire; cet entrepreneur à son tour engage les ouvriers aux prix qu'il veut, répartit l'ouvrage de la façon qu'il juge à propos, et ces Compagnie n'y ont rien à voir. Rien de ceci jusqu'à présent n'est arrivé dans notre industrie; nous sommes fiers de l'harmonie et du contact direct maintenus depuis si longtemps avec nos ouvriers. Nous n'avons aucune animosité envers des organisations telles que la vôtre et notre attitude envers elles a été nous croyons bien définie, dans nos déclarations aux journaux et ailleurs, déclarations qui sont aussi au dossier de la l'Enquête Royale du Textile. Elles se lisaient comme suit."

La Dominion Textile répond à ce que j'ai déjà lu, à savoir que l'avis paru dans les journaux, - il vaut mieux lire que traduire:

"Nous tenons à faire connaitre, sans ambiguité, à tous ceux qui sont concernés, ce qu'est l'attitude de la Dominion Textile Company Limited envers les organisations ouvrières.

Nous laissons nos ouvriers parfaitement libres de se joindre à une organisation ouvrière s'ils le désirent, et, au choix, il semble préférable qu'ils s'enrolent dans une organisation qui n'est ni controlée ni dominée par des éléments étrangers.

Toutefois, il doit être clairement entendu que l'adhésion à toute organisation ouvrière, en tant que nos ouvriers sont concernés ne leur confère aucun droit ou privilère qu'ils ne possèdent déjà dans leurs relations avec le compagnie.

Nos employés ont le droit, en tout temps, de faire à la Direction des représentations lorsque leurs intérêts sont en jeu et qu'ils les jugent comme ne recevnat pas l'attention qu'ils méritent.

La Compagnie ne permettra pas à un tiers d'intervenir entre la Direction et les employés ou de retirer à ceux-ci leursdroits de traiter avec elle en tant qu'individus."

Je pense bien que la Compagnie n'empêche pas, par une formule, à l'employé, le droit de parler à son patron; cependant elle empêche quelqu'un qui prétend faire partie d'une union de parler pour lui. Elle ne permettra pas à un tiers, dit-elle, d'intervenir. Je

ne vois pas ce que peut faire l'union. L'opinino du Dominion Textile, en mars 1935, et l'avis paru dans la tribune, est rapporté dans cette lettre de M. Gordon en date de janvier 1937. Le président des Syndicats Catholiques a posé la question, la vraie question, et il l'a posée de la vraie façon. La plupart des compagnies canadiennessont formées d'unionistes. Les unions sont formées en sorte qu'elles rapportent, ou plutôt qu'elles profitent aux ouvriers. Si les unions canadiennes ne rapportent rien aux ouvriers, ce qui va arriver c'est qu'ils se joindront à des unions étrangères. Et c'est précisément celà qui se fait d'une manière dangereuse. Il y en a déjà de leurs membres qui sont partis. Et ceci est dans l'ordre logique des choses. Si nous ne reconnaissons pas les unions ouvrières dans leur forme actuelles, elles n'obtiendront rien, aucun avantage dans ce pays, elles ne pourront pas se prévaloir de membres. Les ouvriers vont ~~adhrer~~ adhérer aux unions qui progressent; et celles là ne sont-elles pas des unions adverses, et même ennemies? Ils vont leur dire de les laisser là et de venir chez nous. Ce chez-nous, - chez-nous en Amérique. Et actuellement, au point de vue public, qui a tort ou raison? - ce sont eux qui ont raison dans le moment. Le temps est venu pour les industries textiles d'écouter lesréclamations de leurs ouvriers.

Envisageont le problème ouvrier de la même façon que nous envisagerions notre meilleur ami. C'est le temps de le juger par ce qu'il vaut. Envisageons - les par eux-mêmes. Il y en a qui prétendent qu'en Canada, au jour d'aujourd'hui, nous voulons que l'on

tienne des unions ou des organisations de cette façon là. J'ai relevé au cours de l'enquête, et, encore dans le journal, la Gazette du 23 février 1937, un article de Londres, écrit à la suite d'un accident bien regrettable survenu à 265 mineurs qui ont perdu la vie. Voici ce que dit, à ce sujet-là, la triste précision des unions. Ceci est en date du 22 février 1937:-

"At the moment when the rigat of collective bargaining is being disputed in the United states and other countries, the House of Commons will debate tomorrow the report of the British Government Commission which complains that all miners do not belong to unions."

M. LE PRESIDENT: En rapport avec la Commission?

M. BEAUREGARD: " At the moment when the right of collective bargaining is being disputed in the United States and other countries, the House of Commons will debate tomorrow the report of the British Government Commission which complains."

C'est le rapport.

"that all miners do not belong to unions."

M. LE PRESIDENT: C'est la Commission qui se plaint.

M. BEAUREGARD: La Commission se plaint de ce que les ouvriers ne fassent pas partie d'union.

"The report is the result of two years investigation into the Gelly colliery disaster at Gresford pit, North Wales, in 1934, in which 265 miners lost their lives. Amond the causes of the disaster, according to Sir Henry Walker, the Government's chief

inspector for mines, was the fact that many miners were working double shifts in defiance of union rules."

Il donne comme raison que c'est à l'encontre du travail de certains ouvriers qui travaillaient en double équipe.

"Some of them, he suggested, may have kept silent for fear of victimization if they told all they knew about working conditions in the mine. He also admitted that a large number of the men employed in the mine were not effective members of the North Wales Mines Workers' Union.

"But I fail to appreciate," said Sir Henry, "why the union should not have been able to act on any information given to it by such members as it had at the colliery."

Comme si ceux qui étaient reconnus comme appartenant à une union avaient le controle sur ces employés. Celà sortait de sa sphère.

M. LE PRESIDENT: Vous comprenez, qu'une union en Angleterre est controlée par une loi.

M. BEAUREGARD:

"Iam of the opinion that all persons working underground in a mine should be members of a trade union and have inspections made at intervals of not more than three months."

"An even more striking exhibition of the British Government's recognition of the union has come from the dry goods trade in which the department store of the firm of Lewis' Ltd. recently

concluded with the shop assistants' union a far-reaching agreement affecting its 10,000 employees in six English cities. The agreement, which covers wage rates, meals, holidays and conditions of work generally, was sought by employers at the request of the Ministry of Labour."

Les choses marchent d'une autre façon. Le patron sollicite ce contrat. La sollicitation se fait chez le Ministre du Travail.

"In this instance Sir Frederick Marquis, Chairman of the Company, acknowledged that the agreement had been reached "as the result of advance and help of the union."

F.W. Leggett, official of the Ministry of Labot, expressed the hope that it would be followed by similar agreements throughout the British dry goods trade."

M. GORDON: Pour quelle période, pour quel bureau? Peut-être que celà a été changé.

M. BEAUDRAGAD: Je ne vois pas que ce soit mentionné. Voici, qu'il plaise à la Cour, les opinions sont sans doute respectives, en somme, au point de vue du Gouvernement d'Angleterre, le rapport est fait par la Commission Anglaise. Même en tenant compte de la différence de cette condition, je crois qu'il y a une plus grande différence d'opinion, là-bas, qu'ils sont plus avancés. Peut-être des deux côtés l'ouvrier est vraisemblablement du côté du patron. Le patron a l'air à le rencontrer, là-bas, plus qu'il ne le fait ici. C'est un avantage de l'union ou d'une organisation d'agir comme médium entre le patron

et l'employé.

Pour en finir avec cette question là, qu'il plaise à la Cour, je voudrais parler maintenant, je voudraislire certains extraits d'un volume, que j'ai devant moi, et que l'onappelle "Les Relations Industrielles en Grande-Bretagne", par le Professeur J.H. Richardson, professeur à l'Université de Leeds. C'est un document du Bureau Internation du Travail.

M. LE PRESIDENT: Quel est le nom du professeur?

M. BEAUREGARD: Le Professeur J.H. Richardson.

M. LE PRESIDENT: Je l'ai rencontré à Genève.

M. BEAUREGARD: Je désire en donner quelques extraits. Je veux indiquer un certain point de quelle façon l'Angleterre a passé, comme je pourrais dire, a fait traversée du désert.

Il n'est pas nécessaire que les industries, en Canada, connaissent les malheurs et les vicissitudes que l'industrie a traversés en Angleterre, ou qu'elle a pu connaitre. Ils ont pu être obligés, certainement obligés, de défrayer des voies , sous les vicissitudes si nécessaires à la révision deserreurs qu'ils ont pu faire. Le fait est qu'ils sont arrivés au terme suivant leurs expériences et ne sont pas retombés dans le trou, où peut-être ils ne seraient pas retombés sans danger.

Voici ce qui est dit à propos du coton. Le chapitre est relatif à la méthode de l'industrie du coton.

"Comme dans la construction mécanique les modifications générales de salaires et toutes autresquestionsqui intéressent soit l'ensemble

de l'industrie, soit la filature ou le tissage seulement, sont discutés directement entre les organisations centrales d'employeurs et d'ouvriers.

Une procédure acceptée par les deux parties pour la solution des conflits locaux et régionaux fonctionne depuis environ quarante ans dans la filature et depuis plus longtemps encore dans le tissage. Les organisations locales d'employeurs, comme aussi celles des ouvriers, ont conservé dans ces branches d'industrie une large mesure d'autonomis. Le règlement actuel prévoit que les différends locaux seront soumis à une réunion locale de représentants nommés par l'association patronale et par l'association ouvrière de l'endroit. Si l'on n'aboutit pas à un accord, l'affaire est portée devant une ou plusieurs conférences centrales composées de représentants des associations centrales d'employeurs et d'ouvriers. Le règlement exige que ~~xxx~~ le cas en litige soit examiné sans délai. On en pourra déclarer ni grève ni lock-out jusqu'à ce que toutes les étapes de la procédure aient été franchies. Dans le tissage une disposition intéressante spécifie que les représentants des associations centrales patronales et ouvrières devront tenir des réunions à intervalles réguliers pendant toute la durée d'une grève ou d'un lock-out. Plusieurs centaines de conflits locaux sont

réglés chaque année dans des réunions locales; une faible proportion des conflits arrive jusqu'aux réunions centrales."

C'est un joli résultat, pensez-vous?

M. LE PRESIDENT: Ils n'ont certainement pas désespéré.

M. BEAUREGARD:

"Au cours des dernières années, l'industrie, qui a traversé un période de grave dépression économique, a souffert de plusieurs arrêts de travail. Parmi les principales questions en jeu ont été celles des taux de salaires, de l'observation de la semaine de 48 heures et d'autres stipulations conventionnelles, et de la réorganisation de l'industrie, notamment la questionlu nombre de métiers à faire surveiller par un seul ouvrier."

Je vois qu'il se rapproche de nos problèmes.

"Le système de règlement des conflits arrêté en 1932 prévoit l'institution d'un mécanisme de conciliation auquel participeront des personnalités indépendantes. Ce mécanisme sera utilisé en cas de rupture des pourparlers entre les deux partis."

Je citai ce passage-là, afin de montrer que l'on peut dire que ce que fait une association s'applique évidemment au coton comme au reste.

M. LE PRESIDENT: Est-ce un volume que nous avons?

M. BEAUREGARD: Je ne l'ai pas pris ici.

M. RENE DE COTRET: On peut l'obtenir à la bibliothèque du gouvernement.

M. BEAUREGARD: A la page 147, je lis:-

"La structure et l'importance numérique des Conseils nationaux varient suivant les

exigences de chaque industrie. À l'ordinaire les conseils se composent de représentants des syndicats et des associations patronales; les contremaitres et les personnel technique y sont rarement représentés, en grande partie à cause de l'oppositon des syndicats."

M. LE PRESIDENT: Voules-vous répéter?

M. BEAUREGARD:

"les contremaitres et le personnel technique y sont rarement représentés, en grande partie à cause de l'opposition des syndicats."

M. BALLANTYNE: Il laisse la direction à...

M. LE PRESIDENT: Les syndicats passent par-dessus la tête des contremaitres.

M. BEAUREGARD: Les employés préfèrent toujours faire affaire au patron directement que d'avoir affaire au petit boss ou contremaitre, ou surtout au gérant général ou à son assistant.

M. LE PRESIDENT: Les contremaitres contactent contactent moins les ouvriers. Celà vaut mieux.

M. BEAUREGARD: C'est la conduite des contremaitres lorsqu'ils discutent en assemblée.

M. LE PRESIDENT: C'est lui qui est le bouk émissaire.

M. BEAUREGARD: C'est lui qui est en charge, quand il faut obtenir la production. C'est à lui qu'on s'en prend s'il fait partie, dans une convention, du débat. Il doit conduire les arrêtés. Le texte se continue sur la page 147:

"D'un conseil à l'autre on trouve une grande variété dans les tâches entreprises et dans

les résultats obtenus. Il y a peu de conseils qui dans la pratique aient rempli tout le programme ou même une partie impostante du programme esquissé par la Commission Whitley. Nombreux sont ceux qui ont borné presqu'entièrement leur activité aux questions de salaires, de durée du travail et d'autres conditions de travail, objets ordinaires des négociations collectives. Le fait est dû en partie à l'instabilité de la situation économique pendant les années qui ont suivi la guerre et à la nécessité qui en est résultée de procéder fréquemment à un examen des modifications à apporter au taux des salaires. En ce qui concerne les questions énumérées, le système "a donné une base plus large aux négoviations collectives et a fourni une procédure permanente et systématiquepour la revision des salaires et des conditions de travail. Dans un grand nombre de cas des mesures ont été prises qui tendent à la normalisation des taux de salaires et de la durée de travail dans tous les établissements appartenant à la même industrie. On a adopté nombre de principes nouveaux comme la classification par catégories des établissements et des régions, l'adaptation des salaires au coût de la vie par le moyen d'une échelle mobile, en partant, dans quelques cas, des taux de salaires qui étaient déjà en vigueur dans les différents districts."

Je vois que l'on fait intervenir la façon de dénoter le coût de la vie. Ici, nous avons une preuve sérieuse du coût de la vie. Elle est absolument intelligente et conforme, autrement le taux serait plus que le coût de la vie. Le nombre et la quantité énorme de facteurs pour déterminer le coût de la vie n'a pas apparu. Il est prétendu par ailleurs que le coût de la vie n'est jamais stable. C'est comme monter et descendre une vallée, en même que le temps que le salaire nominal.

Voici encore un e méthode à la page 149. C'est un passage intéressant:-

> "Pour donner une idée de la façon dont certains conseils conçoivent l'étroite harmonie des intérêts qui lie employeurs et travailleurs, on peut citer ici un rapport adopté en 1928 par le conseil de la typographie et des industries annexes. En vue d'améliorer à la fois la situation des employeurs et celle des travailleurs en augmentant le rendement effectif de l'industrie et en créant une demande accrue par une réduction du prix de revient et un travail typographique plus soigné, le rapport recommande que:
>
> 1. Les employeurs soient invités à accroitre le rendement de leurs atteliers en mettant au rancart leurs vieilles machines; en en installant de nouvelles et en introduisant des méthodes perfectionnées d'organisation et de production.
>
> 2. Les travailleurs co-opèrent avec les

employeurs à la mise en usage de machines rapides et d'autres moyens propres à réduire le prix de revient.

3. Les employeurs y introduisent des machines permettant une économie de main d'oeuvre fassent effort pour garder tous leurs ouvriers, quittent ;a leur assigner d'autres tâches.

4. Les travailleurs soient encouragés à présenter des suggestions par l'intermédiaire de comités consultatifs d'entreprise en vue d'améliorer les procédés de travail et l'aménagement de l'atelier, et qu'ils soient récompensés d 'une façon appropriée quand leurs suggestions sont acceptées.

Ceci c'est du nouveau, du nouveau qui a certainement de la valeur.

M. LE PRESIDENT: Comme dans le cas des typographes.

M. BEAUREGARD: C'est ce qu'on appelle de la bonne volonté et du savoir faire pour les ouvriers. Les ouvriers sont capables d'apporter quelques améliorations. Quand on leur promet une rémunération, une récompense, pour leur propre avancement, ils peuvent en procurer.

Voici comment se lit le paragraphe:-

4. Les travailleurs soient encouragés à présenter des suggestions par l'intermédiaire de comités consultatifs d'entreprise en vue d'améliorer les procédés de travail et l'aménage-

ment de l'atelier, et qu'ils soient récompensés d'une façon appropriée quand leurs suggestions sont acceptées.

Dans le monde de l 'industrie on en voit qui ne furent que petits contremaitres et ouvriers qui ont perfectioné considérablement les machines, la disposition générale des machines. Ils vont jusqu'à discuter avec des experts. Ils passent leurs idées générales à l 'ouvrier, lequel d'après ses idées peut lui aider.

"Ces recommendations dénotent chez les travailleurs une attitude qui diffère considérablement de celles que l'on leur attribue souvent; elles montrent aussi que leurs employeurs ont conscience de l'importance qu'il y a a éviter tout chomage deû^à la rationalisation."

Il ne le cache pas. Ici, il est plaider que la mécanisation cause le chomage, Eux, ne le plaident pas. C'est tellement vrai que ce n'est pas démontré.

"Ces quelques indications sur l'activité des conseils les plus entreprenants permettent de voir quels résultats, le système peut donner lorsqu'il est appliqué dans des conditions favorables."

C'est-a-dire, quand tout le monde est de bonne humeur. Maintenant, voici les conseils d'industrie. Qu'il plaise à la Cour de me permettre de les citer! Ce chapitre est à la page 151:

"Le système des conseils d'industrie

(Trade Boards) offre l'exemple à la fois le plus important et le plus ancient d'une intervention de l'Etat dans la question des salaires en Grande-Bretagne. La loi de 1909 fut votée après plus de vingt ans d'agitation pour la suppression du "sweating". Depuis longtemps on réclamait une loi qui fît disparaître les pires abus, et la campagne s 'intensifia à partir de 1906 lorsque se fonda la Ligue contre l'exploitation des travailleurs (Anti-Sweating League). La même année, le Board of Trade procéda à une vaste enquête sur les salaires et la durée du travail qui procura une information exacte sur les différentes industries et permit de se rendre compte que dans certaines d'entre elles les salaires étaient exceptionnellement bas. En 1907 M. Ernest Aves, qui devint plus tard président de Conseils d'industrie, visita L'Australie et la Nouvelle-Zélande, à titre de représentant du Board of Trade, pour étudier les systèmes légaux de fixation des salaires minima dans ces pays."

Là, en 1907, il va en Nouvelle-Zélande et en Australie pour voir si les salaires ne sont pas toujours à la tête du monde.

"En 1908 une commission de la Chambre des communes présenta un rapport conclu-

ant à la création par voie législative de conseils chargés de fixer un salaire minimum dans certaines industries où l'on faisait travailler les ouvriers à vil prix. Enfin en 1909 la loi sur les Conseils d'industrie fut votée par le Parlement, à peu près telle que la commission l 'avait recommandée. Cette loi autorisait le Board of Trade (après 1917 le ministère du Travail) à créer un conseil chargé de fixer des salaires minima dans toute l'industrie où le taux des salaires était "exceptionnellement bas par rapport aux salaires des autres industries". Au début, la loi ne fut appliquée qu'à quatre branches d'industrie où les ouvriers apparaissaient particulièrement exploités, à savoir: la confection et les vêtements sur mesure en gros, la fabrication des boîtes en papier, l'apprêt de tulles et dentelles à la machine, la fabrication des chaînes. En 1914 des conseils furent établis pour quatre autres branches d'industrie: la confection des chemises, la confiserie, la fabrication des boîtes en fer-blanc et celle des ustensiles de ménage. Les huit branches d'industrie auxquelles la loi était alors appliquée employaient environ un demi-million de travailleurs.

Pendant les années de la guerre, la situation des salaires et les méthodes

de réglementation des salaires on été anormales dans une grande partie de l'industrie britannique; des taux de salaires ont dû être appliqués par arrêté du ministre des Munitions à un grand nombre de travailleurs appartenant à des industries où existait un conseil d'industrie. Mais en m-ê même temps, en prévision du retour à des conditions normales, la Commission Whitley recommada une extension du champ d'action et des fonctions de ces conseils. Comme on l'a déjà indiqué la Commission établissait une distinction entre les industries où les employeurs et les travailleurs étaient bien organisés et celles où l'organisation était faible.

Autant dire, qu'elle allait au devant de celles qui n'étaient pas organisées.

"Et elle proposait pour ces dernières de recourir au système des conseils d'industrie en vue de fournir un organisme régulier de négociations et de décisions."

M. LE PRESIDENT:

Des conseils aux industries? Cela veut dire qu'elle trahissait l'union.

M. BEAUREGARD:

Comme il y a des distinctions dans toutes les organisations, il y en avait qui étaient faibles. Alors, on proposait a ces dernières de recourir aux conseils des industries en vue de régler les décisions."

Pour des questions dans l'organisation. Elles étaient réglés par des conventions collectives.

M. LE PRESIDENT:

Déja on les voyait en 1907.

M. BEAUREGARD:

Cela c'est en 1907.

M. LE PRESIDENT:

On parlait déja des contrats collectifs.

M BEAUREGARD:

"Jusque là ils avaient servi simplement à empêcher l'exploitation abusive des ouvriers dans certaines branches d'industrie où les salaires étaient exceptionnellement bas.

En 1918 fut votée une loi qui amendait celle de 1909 conformément aux recommandations de la Commission Whitley. La nouvelle loi autorisait le ministre du Travail à créer un conseil dans toute industrie où, à son avis, "il n'existe aucun organisme suffisant pour la réglementation efficace des salaires dans l'ensemble des établissements intéressés, et où, en conséquence, vu le taux des salaires courants dans cette industrie ou dans une branche quelconque de cette industrie, il y a intérêt à appliquer les dispositions des lois de 1909 et de 1918."

M. MALLANTYNE:

Est-ce que j'ai bien compris cette loi etait seulement pour les industries et non pas pour les or-

ganisations dans les compagnies.

M. BEAUREGARD:

Elles ont fait intervenir le Gouvernement.

M LE PRESIDENT:

Une autorisation du Ministre.

M. BEAUREGARD:

A intervenir là où les ouvriers ne paraissaient pas suffisamment organisés. A intervenir seulement dans le cas de salaire exceptionnellement bas. Ceci est selon la loi de 1909. En 1918 il était entendu d'organiser toutes les industries où il n'y avait pas de représentant organisé.

"Durant les trois années qui ont suivi le vote de ~~lla~~ la loi de 1918, l'application de la loi a été étendue à un nombre considérable de branches d'industrie, mais à dater de la fin de 1921 la situation ne s'est plus guère modifiée. A la fin de 1931 quarante-cinq conseils d'industrie avaient été constitués pour des industries ou des branches d'industrie employant un chiffre total de travailleurs évalué à 1.100.000, dont 70 pour cent environ étaient des femmes.

Contrairement aux lois sur les salaires minima qui ont été adoptées dans certains autres pays et qui ne protègent, tantôt que les travailleurs à domicile, tantôt que les seules ouvrières, la législation britannique sur les conseils d'industrie s'applique à la fois aux hommes et aux femmes, qu'ils travaillent à domicile, dans des ateliers ou dans des fabriques. Chaque branche d'industrie a son

conseil particulier qui généralement fonctionne pour tout le pays. Le conseil comprend des représentants en nombre égal des employeurs et des travailleurs de la branche d'industrie en question et, en outre, quelques personnes étrangères à l'industrie, dont l'une préside le conseil; le nombre de ces membres indépendants doit être inférieur à la moitié du nombre total des représentants patronaux ou ouvriers. La dimension des conseils est très variable, car dans quelques branches d'industrie une large représentation est nécessaire pour tenir compte des différentes catégories de travail et des différents districts. En moyenne le nombre des membres est d'environ quarante; dans la pratique, chaque conseil n'a que trois membres indépendants. Les membres sont nommés par le ministre du Travail. Dans les industries où il y a une certaine mesure d'organisation, les associations patronales ou les syndicats sont priés de désigner des candidats. A côté de ces représentants des associations le conseil comprend souvent des représentants des secteurs non organisés de l'industrie, qui sont choisis par le ministre. A la fin de 1931 environ 85 pour cent des représentants patronaux et plus de 80 pour cent des représentants ouvriers dans les conseils d'industrie avaient

été désignés par les organisations professionnelles intéressées.

Voici maintenant un bout de commentaire, à la page 155:

"En ce qui concerne l'attitude des employeurs, la conclusion formulée en 1926 par la Commission de l'industrie et du commerce semble être encore exacte aujourd'hui. "D'une façon générale, disait la Commission, on peur affirmer que les employeurs les plus importants ne font guère de difficultés pour observer la loi, et que la grande majorité des travailleurs employés dans les industries protégées par les conseils reçoivent au moins le salaire minimum fixé. Parmi les petits employeurs la situation est certainement moins bonne, mais la chose a moins d'importance, étant donné le nombre comparativement minime des travailleurs qu'ils emploient." C'est une opinion très répandue que le système des conseils d'industrie a réussi "à faire disparaître les formes d'exploitation les plus criantes et à régulariser la situation des salaires", qu'il a protégé le bon employeur contre les salaires de famine payés par des rivaux moins scrupuleux, et qu'il a poussé à

réaliser des améliorations dans les méthodes de travail."

Je suis sous l'impression que M. Coté nous avait parlé dans le même sens. Il devait avoir à peu près la même expérience. Le paragraphe finit comme suit.

"A vrai dire, depuis plusieurs années les taux minima fixés par différents conseils d'industrie ont été nettement plus élevés que ceux qui sont fixés pour le même niveau d'habileté manuelle par les conventions collectives de quelques-unes des industries d'exportation où l'organisation professionnelle est la plus forte. Le fait est dû dans une large mesure aux conditions économiques moins favorables de ces industries."

Il y a un chapitre absolument interessant au sujet de l 'administration du personel. La facon de se conduire, de traiter les ouvriers en dehors de la question du salaire. A la page 243 il y a un petit paragraphe:

"Les soins médicaux sont généralement gratuits pour tous les jeunes ouvriers et parfois pour les adultes aussi, mais on fait payer une légère rémunération pour les remèdes. Dans les services dentaires les adultes paient juste de quoi défrayer le coût des matériaux et du travail, mais les jeunes

ouvriers sont souvent traités gratis ou à des prix extrêmement bas. Quand des lunettes sont ordonnées par les spécialistes, elles sont fournies au prix de gros. Dans quelques grands établissements le service médical et le service dentaire coûte à la maison plusieurs milliers de livres par an, mais cette dépense est apparue à l'expérience comme pleinement justifiée par la réduction de la morbidité et par l'amélioration du rendement qui s'en suit."

C'est un paragraphe assez sérieux, lorsqu'il s'agit de demander des améliorations au sujet de l'hygiène. Ils ne les demandent pas comme charité, ils les demandent dans l'intérêt du patron. L'intérêt vital de l'ouvrier est comme celui de la machine; il doit être en plein état de rendement.

Qu'il plaise à la Cour, voilà la conclusion. C'est un vrai résumé de la législation anglaise, un résumé d'enquête, de rapport. Est-ce qu'il ne représente pas l'opinion des hommes.

Il conclut comme ceci:

"Une analyse des relations industrielles, en Grande-Bretagne, au cours des 20 ou 30 dernières années montre que des modifications nombreuses d'attitude se sont produites dans ce domaine et qu'on y a constaté des situations offrant un contraste marqué. C'est ainsi que certaines branches de l'industrie ont été des centres d'agitation et ont vu des conflits fréquents et graves, alors que d'autres, dont la

situation économique n'était pas plus favorable, ont conservé une paix industrielle que rien n'a troublé. La guerre industrielle qui a sévi avec un exceptionnel acharnement pendant les cinq ans qui ont précédé la grande guerre, a repris avec une violence redoublée pendant la période 1919-1923. Une accalmie survenue en 1924 et 1925 a été suivie de la catastrophe de 1926. En cette seule année, le total du temps perdu, principalement par suite de la grève générale et les neuf mois d'arrêt du travail dans les mines de charbon, a été très notablement supérieur à la somme du temps perdu pendant les 15 années de la période 1905-1919. Puis, en contraste marqué avec les années d'avant-guerre et celles qui ont immédiatement suivi la guerre, la période de 1927 à 1932 a été remarquablement exempte de conflits sérieux; la durée totale des grèves et des lock-outs répartis sur l'ensemble des travailleurs du pays représenterait une perte de temps pour l'industrie britannique à peine supérieur à un jour en cinq ans, soit une moyenne de deux à trois heures seulement par an.

Pour comprendre les variations des relations industrielles en Grande-Bretagne, il est nécessaire de tenir compte en premier lieu des changements qui sont survenus dans la situation économique au début du

siècle actuelet des effects de ses changements sur la caractère et l'aptitude des employeurs et des travailleurs des différentes branches de l'industrie. Pendant la période 1900-1920 les prix s'élevèrent sans arrêt et la pression exercée par les syndicats suffit généralement à obtenir des augmentations de salaires nominaux ainsi que d'autres satisfactions.

A vrai dire, les conflits de la période 1910-1914 furent causés, d'une part, par la répercution de la hausse des prix sur les conditions de vie des travailleurs et, d'autre part, par la propagation des idées socialistes, et de développement de l'organisation syndicale. Les années de la guerre furent marquées par un accroissement de prestige pour le mouvement syndical, une reconnaissance presque générale du syndicalisme, l'acquiescement à une grande partie de ses revendications et la promesse de la part du gouvernement d'une amélioration de la situation des travailleurs. Pendant les années 1919 et 1920, les prix continuèrent à monter et les syndicats obtinrent fréquemment des augmentations des salairesnominaux au cours de cette période, ainsi que des réductions importantes de la durée du travail. Ainsi, pendant 20 ans, les dirigeants du syndicalisme et leurs suivants n'avaient connu que le succès. On

pouvait citer nombre de gains acquis, bien qu'en certains cas ces gains n'existastent guère qu'en apparence, comme par exemple l'ajustement des salaires nominaux aux variations du coût de la vie. Les effectifs des syndicats avaient également augmenté sans arrêt pendant ces deux décades et, en 1920, ils avaient atteint le chiffre remarquable de plus de huit millions d'adhérents. Le mouvement syndical était plein d'ardeur et de confiance."

Nous avons un peu la même chose ici; ils parlent des mêmes salaires de 1914 et de depuis. Pendant les années de guerre les salaires et les prix ont eu un ascendant durant cette époque, mais pas de la même façon pour le coût de la vie. Malgré que les salariés croyaient être bien payés, pendant la guerre, ils étaient payés excessivement mal.

Voici ce qu'il y a en page 275:

"La crise économique frappa avec bien plus de force les industries d'exportation que celles qui travaillaient à l'abri de la concurrence étrangère."

Ceci ~~xxxif~~ serait faire une certaine similitude avec notre cas.

"Dans nombre d'industries non protégées, les travailleurs ne se montrèrent pas disposés à accepter sans lutte de voir leur taux de salaires et leur niveau de vie tomber très au-dessous de ceux dont bénéficiaient leurs camarades des industries protégées,

Ce qui semble dire qu'en Aggleterre les industries sont protégées, et elles protègent les ouvriers.

"et c'est ce qui explique en partie la gravité particulière des conflits qui se sont produits durant les premières années d'après guerre dans les industries non protégées. Dans quelques-unes de ces industries, on s'aperçut promptement que les temps étaient changés et on procéda à des remaniements à l'amiable. Mais c'est seulement après les désastres de 1926 que l'on saisit enfin, dans le champ presqu'entier de l'industrie britanniques, la nécessité d'aller très loin dans la voie des concessions mutuelles pour éviter les conflits. Le changement qui survint après 1926 dans l'attitude et dans le plan d'action des intéressés est indiqué par le contraste qu'on relève entre la crise énonomique de 1921 qui fut accompagnée de conflits d'une exceptionnelle gravité et la dépression encore plus profonde de 1930-1932 qui ne suscita que peu de différends étendus lesquels n'entrainèrent, par arrêt du travail, que des pertes légères."

Il y a eu deux crises économiques plus désavantageuses et qui causèrent des détractes et comme conséquence des pertes moins importantes d'argent.

"La question se pose de savoir si les relations plus pacifiques des quelques dernières années se maintiendront lorsque la crise économique fera place à la prospérité et

que la pénible période de transition que traverse l'industrie britannique aura touché à sa fin. C'est là une question à laquelle il serait imprudent de répondre, bien que les signes ne manquent pas qui montrent à la foi chez les employeurs et chez les travailleurs un désir d'éviter le retour de conflits analogues à ceux qui ont marqué les premières années d'après-guerre. Il est évident que la possibilité de réduire la gravité des conflits serait accrue si l'on parvenait à maintenir une plus grande stabilité économique."

Je demande pardon à la Cour de tant lire, mais je trouve là tant de choses qu'on ne peut mieux dire.

M. LE PRESIDENT: Vous pouvez continuer.

M. BEAUREGARD: M. Richardson a parlé beaucoup plus quepmoi.

"Ce serait, d'autre part, donner une idée erronée des relations industrielles en Grande-Bretagne que d'appuyer exclusivement sur les conflits et sur l'importance des pertes qui en ont résulté. Même dans les années les plus troublées ce n'est qu'une petite minorité des travailleurs et des employeurs qui sont mêlés aux grèves et aux lock-outs. Des accords sont continuellement conclus par la voie de conférences et de négociations et, comme on l'a vu au chapitre IV, tout un système très complet de relations et de conciliations a été institué dans la plupart des industries professionnellement bien organisées. Il est vrai

qu'il ne suffit pas d'un mécanisme, si bien monté soit-il, pour garantir la paix industrielle. L'expérience de l'industrie charbonnière, laquelle possède un cadre étandu de commissions mixtes de conciliation fonctionnant dans chaque district, montre que le mécanisme s'enraillera inévitablement en l'absence de la volonté de préserver la paix. Il n'en reste pas moins qu'un organisme de négociations régulièrement constituéés est indispensable et qu'il peut singulièrement faciliter la conclusion d'accords.

La création de grandes organisations nationales d'employeurs et de travailleurs a conduit, en ces dernières années, à l'établissement d'un mécanisme de négociation dont le fonctionnement s'étend à l'ensemble du pays. Ce système comporte des avantages variés. Il permet de coordonner les plans d'action, d'appliquer des principes généraux et, sans cesser d'accorder les conditions de travail à la situation particulière à chaque district, d'embrasser un horizon plus large, alors que lesnégociations sont menées indépendemment dans chaque région. Des dispositions sont prises par ailleurs, à l'ordinaire, pour que les commissions nationales puissent connaitre des différences de situation existant entre les régions. Ces commissions sont mieux en mesure de

trouver des bases d'accord que les parties immédiates à un conflit dont le jugement peut être faussé par des griefs individuels ou par des questions d'influence."

Et en page 279:

"A l'intérieur des entreprises, il se produit également des changements qui ne peuvent manquer de contribuer au maintient de la paix industrielle. Le contremaitre tyrannique a presque disparu."

C'est celui, qui, un temps, on a cru ne pas voir disparaître.

"On y tient compte d'avantage du facteur humain, non dans un esprit de paternalisme, mais en vue d'un rendement plus efficace."

Il paraitrait!

"Cette évolution est indiquée par l'accroissement du nombre des directeurs du personnel, le développement des services sociaux et l'intérêt plus vif qu'on porte au résultat des recherches scientifiques en matière d'hygiène et de psychologie industrielles."

C'est la dernière page, page 281:

"En résumé, un organisme très complet de négociations et de conciliation a été créé en Grande-Bretagne dans une large mesure par voie d'accord entre employeurs et ouvriers organisés, et l'on pourrait, avec avantage, perfectionner quelques rouages de ce mécanisme. Par ailleurs, les méthodes

d'administration de la main-d'oeuvre, les service sociaux et la consultation entre direction et personnel en matière de conditions de travail, appliquées par les entreprises progressistes devraient être généralisés dans l'industrie. Ces initiatives contribueraient en effet au développement d'un meilleur esprit et d'une plus grande harmonie, condition indispensable pour empêcher le retour de conflits industriels analogues à ceux des 20 ou 30 dernières années. Sans amélioration de l'état d'esprit des employeurs comme des travailleurs, les systèmes les plus ingénieux et les plus complets pour favoriser l'entente demeureront toujours inefficaces.

Les indices ne font pas défaut qui annoncent une lente modification des points de vue. Le vieil esprit d'amertune et de violence du dix-neuvième siècle, né des dures conditions dans lesquelles travaillaient les ouvriers, de la répugnance des employeurs à reconnaitre les organisations de travailleurs, et souvent de leur détermination de détruire les syndicats, fait place à une meilleure compréhension mutuelle. Les données quisont soumises à l'examen des parties au cours des négociations attestent d'une bonne foi plus générale, on est mieux disposé de part et d'autre à accepter les faits tels qu'ils sont et, partant, l'écart de conception qui sépare

les deux parties se rétrécit toujours d'avantage. Les lourdes pertes causées aux employeurs et aux travailleurs par des conflits s'étendant à l'ensemble du pays ont appris aux intéressés que la technique des négociations d'avant-guerre alors qu'un échec n'entrainait à l'ordinaire que des arrêts du travail purement locaux, mais plus de mise dans la situation actuelle. Pardessus tout, il y a une disposition croissante à reconnaitre que les employeurs et les travailleurs de Grande-Bretagne sont également intéressés à la prospérité de l'industrie britanniques, surtout en raison de l'intensité de la concurrence internationale qui s'est manifestée depuis la guerre.

Un grand nombre des questions qui ont donné naissance dans le passé à des différends aigus et à de graves conflits ne présentent aujourd'hui que peu de difficulté. Mais les progrès de l'évolution industrielle et économique font surgir continuellement de nouveaux problèmes. Parmi ceux qui ne peuvent manquer de revêtir une importance capital dans un prochain avenir, il y a lieu de citer la rationalisation au sens le plus large du terme, c'est-à-dire la réorganisation industrielle, le mechinisme et les relations entre l'industrie et la finance. Etroitement solidaires de ce problème sont ceux que susciteront en matière

de relations industrielles la formation de cartels, de trusts et de monopoles nationaux et internationaux, ainsi que l'évolution de l'économie dirigée. Bien que ces graves questions puissent comporter des risques de conflits entre employeurs et travailleurs, elles n'en fournissent pas moins un champ nouveau pour le développement d'une coopération plus étroite."

Je pense que nous trouvons là, passablement posées souvent les mêmes questions qui nous intéressent. Par exemple, de l'autre côté des mers elles se résoudent d'une autre façon. L'esprit des employeurs paraît plus vieux de quarante ans à peu près de l'autre côté de l'eau qu'ici.

LA COUR AJOURNE POUR QUELQUES MINUTES.

M. BEAUREGARD: Qu'il plaise à la Commission, depuis l'ajournement on a bien voulu me procurer le rapport du journal La Gazette, en date du 12 mars 1937. C'est le rapport fourni par la Canadian Press. Mon information, à date, est que c'est le seul rapport dans le Canada qu'a dû voir la compagnie.

Voici comment la Gazette rapporte l'incident, - le connaissant déjà par le Canada:-

"Mr. Ballantyne today told the Commissioner what the company's attitude was to labour unions. This was an answer to a question by Mr. Justice Turgeon which sought to ~~illicit~~ elicit if the company had any "out-

standing objection to collective bargaining."

His Lordship said he has himself met labour leaders and industrialists in England. Both parties were organized specifically to discuss labour problems. He appreciated that in the United Kingdom the textile industry was concentrated in practically the one section of the country, a fact which differentiated it from Canada. Also, that concentration was in ~~a~~ large urban centers, whereas in this country mills were distributed among small rural communities, with the exception of Montreal and Sherbrooke, Queb, and Ontario points.

There was no dissention in the discussions he has attended, said the Commissioner. "All agreed everything was getting along fine," he added, asking "why can that not be done in Canada?"

"The trouble is, as the textile employers see it," said Mr. Ballantyne, "there is no union existing that has the support of the vast majority of the textile workers. The second point is, the textile union leaders, of recent years, have given the impression that they are more interested in forming a union for the sake of having a union than for having the means whereby they can improve the lot of the employees, or for the having the employers and operatives meet as Your Lordship said they meet in England."

SCORES UNION LEADERS

Council did not think any union leader heard during the inquiry had even a rudimentary knowledge of the textile business, or of the conditions under which the employees work.

"I cannot doubt the sincerity of such men as Abbe Coté, who has the interest of the workers at heart," council said, "but I was not impressed by the other leaders."

"You mean Alzear Bastien?" asked the Commissioner.

"Yes, more particularly," replied Mr. Ballantyne.

(Bastien was the organizer of the United Textile Workers, who had sought to establish unions at Three-Rivers and Sherbrooke.)

"Bastien worked only a small portion of his time once in a textile plant," continued council. "It seems to me that the unionization of any industry must come from within. When the worker feels he needs a union to protect him, he has it in his power to organize one. It should not be imposed upon him from the outside. The relationship between the employees and the employers does take other forms, and I think the worker is satisfied with these forms."

M. LE PRESIDENT: Je crois que le rapport ici est correct.

M. BALLANTYNE: Oui, je crois que le rapport ici est correct.

M. BEAUREGARD: C'est celui qui aurait dû être publié à Ottawa.

M. LE PRESIDENT: Je vous prie d'attirer l'attention du Canada, sur celui-ci.

M. BEAUREGARD: Maintenant, qu'il ~~pl~~ plaise à la Cour, la question qui me parait une des principales soumises à l'étude de la Commission par ordre en conseil, - à savoir la seule chose, par cette phrase-ci de l'ordre, de la minute qui accompagne l'ordre en conseil; qu'il est essentiel que le gouvernement soit renseigné à fond. La question est déjà posée. - Afin de lui permettre une saine conclusion, quant à la situation exacte de l'industrie en face de la compétition britannique et étrangè re, - voici qe que l'on veut traiter, - "et quant à la mesure où l'employeur peut être raisonnablement tenu de continuer l'emploi en temps de crise." C'est une des questions de principe de cette Commission.

C'est la fermeture de la Sherbrooke, avec la publication du pourquoi de la fermeture et les commentaires du gérant-général de la Dominion Textile: "Nous rouvrirons plus tard quand nous aurons vendu ce que nous avons," - qqui a donné occasion à la naissance de cette Commission. Je ne veux pas dire que l'industrie n'a pas répondu à cette question, mais si j'avais à apprécier les réponses données, je dirais qu'elle n'a pas répondu d'une manière satisfaisante. Que faut-il dire quant aux mesures à prendre pour que les employeurs continuent à employer leurs ouvriers

dans le temps d'une crise? Si je comprends bien le terme de l'ordre en conseil, l'ordre en conseil admet, en principe, que l'industrie avec les avantages qu'elle reçoit et a reçus, ces avantages lui ont donné naissance et dans d'autres cas conditionnés son développement. L'ordre en conseil dit qu'il faut prendre pour acquis que l'industrie n'a pas le droit dans le temps d'une crise de lâcher, pour ainsi dire, ses employés. Seulement, il peut y avoir une mesure dans le sacrifice d'une industrie, qu'elle peut et doit s'imposer, pour soutenir ses employés, dans le temps d'une crise. Maintenant, dans quelle mesure? Jusqu'à quel point doit-elle maintenir son sacrifice pour maintenir ses employers.

L'industrie, représentée par la Primary Textile ou les compagnies individuelles, n'ont pas répondu, pour ainsi dire. Les réponses données sont indirectes. L'industrie dit qu'elle n'en fait que pour ses dépenses à elle, actuellement. Elle dit que c'est tout ce qu'elle a fait en 1934 et 1935, et que c'est un retour en arrière depuis les huit ou dix dernières années. Elle ne dit pas qu'elle fut tenue de maintenir ses employés. Elle prétend les avoir maintenus. Elle ne dit pas, d'une façon précise, jusqu'à quel point, je veux dire jusqu'à quel point de sacrifice pour elle, l'industrie comme totale, ou telle ou telle usine en ~~particulier~~ particulier ou en groupe, ou qu'un groupe soit controlé par une même compagnie.

Cependant, la question pertinente au débat, c'est la question qui est posée. La réponse de

l'industrie, telle que donnée, - c'est l'industrie comme totale, - est qu'elle a maintenu l'emploi; que certaines industries, certaines compagnies l'ont maintenu avec quelques sacrifices. C'est-à-dire, suivant l'expression employée, au risque de donner dedans, "in the red". Elle n'a pas dit quelle a continué ses opérations en agissant par devoir, - qu'elle a continué avec ou par obligation vis-à-vis de ses employés. J'ai compris, qu'elle avait agi comme un grand nombre d'autres industries. Je pourrais dire que les autres industries ont fait la mesure du possible, aussi longtemps qu'elles ont pu, jusqu'à la mort, jusqu'à ce que la faillite les prenne. Est-ce que je puis dire celà?

Une compagnie peut prendre sur son actif sans qu'il y ait grand danger qu'elle tombe. Elle peut toujours s'arranger vis-à-vis des banques et des porteurs de débentures. Il me semble qu'elle n'a pas voulu répondre à la question qu'on lui pose. On est justifié, jusqu'à un certain point, de dire qu'elle a maintenu l'emploi.

Maintenant, je ne sais pas s'il y a lieu de distinguer, dans l'industrie, entre les différentes sections, quant au point de vue du maintien de l'emploi. A l'industrie on pose une question, et elle répond comme un tout. Mais, il y a l'industrie du coton, de la laine, de la soie. Cependant, l'industrie ne reçoit pas les avantages de la protection sous cette forme-là. C'est-à-dire, que le tarif n'est pas le même pour le coton, la soie et la laine. Ce sont des ~~entrées~~ intérêts

séparés. La soie jouit d'un marché beaucoup plus ferme que le coton et la laine. Le coton est en méilleure posture que la laine. En somme, des trois, la laine est la moins heureuse devant la compétition étrangère. Des trois, la laine est allée plus souvent dans le rouge.

Les compagnies de coton y sont allées. La Wabasso y est descendue, il y a deux ou trois ans. La Montreal Cotton y est descendue. On trouve celà plus vil, plus misérable, quand elle ne paie pas de dividendes. Elles sont allées "in the red".

Quant à la Dominion Textile, c'est la seule qui a le mieux supporté le coup, - mais, elle est allée "in the red" en 1933. On a pas cherché à savoir si cette compagnie a légitimement été "in the red" durant cinq ans pour $600.000. J'ai compris, d'après le rapport qu'elle y est allée pour $13,000. Quoi qu'il en soit celà a été seulement que pour une année. Même, cette compagnie-là, dans l'un des factum, n'a pas jugé à propos de répondre à cette question. Il s'y trouve, cependant, que la Dominion Textile représente, au point d'en croire le plaidoyer, 70 à 72% de l'industrie du coton dans la province de Québec.

On peut s'en rendre compte par l'exhibit 1363, cédule no. 3 . Sur cette pièce numéro 3, il y est donné un exposé du revenu total des dépenses, du pool, de l'argent qui était resté à partager entre le Capital et le Travail. Nous allons prendre pour le moment surtout, la cédule numéro 3. Sous un aspect assez frappant on y a introduit respectivement

le Labeur et le Capital. Autrement dit, la participation de l'ouvrier à son travail. Et, celà est dit aux bailleur de fonds par son capital.

Dans une première liste, "Investment in Man Hours" on voit quelles sont les heures de travail de l'ouvrier dans chacune des années. Autrement dit de quelle façon le travail a été marqué.

J'ai pris, comme année type, l'année 1927 comme devant représenter 100. En disant que l'année 1927 est une année type je voudrais dire 100. Ce qui veut dire, en réalité, que 100 peut dire un peu moins que 50 heures par semaine. En 1927 il n'y a pas eu 57 heures de travail. Il y en a eu un peu moins en 1927. Je Que voulait dire celà ?

En 1928, il y en a eu 102 1/2. En 1929, année de dépression, il y en a eu 99 1/2. En 1930, il y en a eu 90. En 1931, il y en a eu 79. En 1932 il y en a eu 77 1/2 et en 1933, point creux , il y en a eu 70. En 1934 il y en a eu 81. L'année 1934 est l'année qu'on a appelé, le renouveau de l'industrie, on a appelé l'année 1934 l'année de recouvrement, - et il y en a eu 81. En 1935, il y en a eu 84 1/2 et en 1936 il y en a eu 86 1/2. En 1934, c'est là qu'elles ont commencé ou recommencé plutôt à payer des dividendes.

M. GORDON: Vous avez dit que pour l'année 1929 il y en a eu pour 99 1/2; cette année là c'était l'année de dépression.

M. LE PRESIDENT: L'année fiscale se termine au mois de mars. C'est plutôt l'année 1929-1930.

M. BEAUREGARD: Comme ici, quand je dis 1927, je veut dire de mars 1927 à mars 1928. On a choisi le mois de mars parce que c'est le plus long de l'année.

M. LE PRESIDENT: On l'appelle le mois nominal.

M. BEAUREGARD: L'année 1929 en regard avec l'année 1929 donne une proportion de 30. L'année 1933 a une dépression de 70 contre 90. Il y a 20 points de différence avec 90. C'est à peu près 1/4. 20 points, c'est 22 1/2 de différence entre 70 et 90.

Nous ~~sm~~ sommes en présence de ces chiffres. Ces chiffres qui sont donnés là, seront peut-être à discuter en présence d'autres chiffres. Il parait qu'en 1930 il y a eu un tarif remédiaire pour maintenir l'emploi, et non pas seulement pour maintenir l'emploi mais pour donner plus d'emploi.

M. LE PRESIDENT: Celà a commencé à opérer en 1931.

M.GORDON: Ils prévoyaient les choses qui pouvaient arriver.

M. BEAUREGARD: En l'année 1931, il y en a eu 79. En l'année 1932 c'est tombé à 77 1/2. En l'année 1933, il y avait deux ans que le tarif remédiaire existait, on est rendu à 70. Quant à moi ce n'est pas tant une amélioration que de la façon dont l'emploi a été maintenu. Maintenant, je suis d'autant moins certain que de ce que nous avons devant nous.

M. LE PRESIDENT: Vous trouvez que la compagnie n'a pas rempli la totalité de son devoir?

M. BALLANTYNE: La compagnie a évidemment donné la pleine mesure de travail possible. Même en face

des chiffres que l'on a ici, la partie allant à l'ouvrier n'a pas tombé dans le même degré ainsi que les heures de travail. C'est-à-dire qu'il a reçu plus en proportion qu'il recevait avant la guerre.

M. BEAUREGARD: Comparativement.

M. BALLANTYNE: Comparativement aux dividendes. Comparativement à ce qu'ils ont eux-mêmes reçu.

M. GORDON: Ce n'est pas la compétition qui crée celà. Toutes les industries, en Canada, sont tombées. Les compagnies d'automobiles ne payaient pas.

M. LE PRESIDENT: C'est là justement la question. C'est de savoir jusqu'à quel point l'industrie a continué de fonctionner nonobstant la crise survenue. Jusqu'à quel point?

M. BEAUREGARD: Je puis faire erreur.

M. LE PRESIDENT: Tant qu'ils auront des commandes, mais quand les commandes cessent c'est celà qu'envisage l'ordre en conseil. Il pose le principe de choisir entre le tarif ou de faire des sacrifices en temps de crise pour donner du travail quand même, si les commandes venaient à faire défaut. Si ils acceptent celà, comme principe, il s'agit de savoir jusqu'à quel point une compagnie peut continuer à fonctionner à perte.

M. BEAUREGARD: Je comprends que l'ordre en conseil assume d'avance que la compagnie perde l'argent en fonctionnant.

M. LE PRESIDENT: Que ce soit là ou non, la question est là.

M. BEAUREGARD: Si l'ordre en conseil présume que la compagnie dans ses affaires peut faire plus ou

moins de profit, la compagnie est plus ou moins satisfaite. Mais si elle fait du profit, ou plutôt si elle cesse de faire du profit elle cesse d'être satisfaite. C'est comme pour n'importe quelle industrie.

M. LE PRESIDENT: Pouvez-vous vous-même fixer un point quelconque? L'ordre est à l'effet que la compagnie n'est pas tenue de fournir du travail.

M. BEAUREGARD: Il est excessivement difficiel de donner une relation. Je dirais que c'est dans la mesure du "grasp" de la compagnie. Dans la mesure de recevoir. Dans la force de se tenir debout pendant une période assez longue pour passer la ~~péri~~ dépression. Certaines compagnies peuvent ne pas avoir de réserve, même de capital suffisant pour tenir longtemps. C'est le cas pour les industries non protégées. Quand elle n'a pas de capital elle va abandonner, mais tant qu'elle a une chance, non seulement de faire de l'argent mais de sauver son actif d'une façon générale, elle peut compter sur des emprunts pour faire des affaires. C'est seulement par son capital seul qu'une industrie ordinaire peut juger à propos..., par exemple la Dominion Textile peut juger à propos de fermer certains moulins pour ne pas abandonner toutes les affaires. La Dominion Textile a jugé à propos de fermer Sherbrooke ou d'autres moulins. Elle peut ainsi réduire des dépenses inévitables telles que celles de l'administration.

M. LE PRESIDENT: Je crois que l'ordre en conseil envisage un ordre de prix. Dans le cas de cet ordre même quand il n'y a pas de dépression une compagnie

peut fermer ou ouvrir ses usines d'après ses intérêts. En d'autres termes, quels secours l'industrie doit-elle apporter et quels moyens doit-elle prendre pour faire continuer le travail.

M. BEAUREGARD: L'ordre en conseil dit entre autre chose, ceci:-

> "The minister is of the opinion that industry generally and especially an industry whihh has had for years the benefit of the protection afforded by the custom's tarif, should recognize its responsibility to carry on operations with due regard to its obligations to employees and to the public, and not to arbitrarily shut down its plants."

C'est une déclaration peut-être économiques, bonne ou mauvaise. Quant à nous nous n'avons pas à la discuter.

M. LE PRESIDENT: C'est un principe que pose le gouvernement.

M. BEAUREGARD: Maintenant:

> "In order to determine the extent of this responsibility, the governement wishes to be fully advised with respect to the operations."

M. LE PRESIDENT: C'est afin de déterminer l'ampleur.

M. BALLANTYNE: C'est dans les limites de la fermeture. C'est laisser comme question de responsabilité, les limites de la fermeture d'une usine.

M. LE PRESIDENT: La question est plus large que celà.

M. BEAUREGARD: Je vais lire toute la question:-

"In order to determine the extent of this responsibility the government wishes to be fully advised with respect to:

The operations and conduct of the industry concerned and of inter-related and allied industries,

so as to determine the responsibility of the employer,"

Je comprends la responsabilité quant à ce que l'on vient de dire.

"and to take appropriate action,

not only with regard to safeguarding the interests of employees and of the public, but also of the industry itself.

"That is essentially the object of the inquiry.

The subject matter, scope and depth of the inquiry are indicated with sufficient clarity in the order in council:

It is essential that full and complete information be available to the government.

Dit l'ordre en conseil:

covering a period of years

with respect to costs,

profits,

wages,
salaries and bonuses,
tarif protection,
investments,
and with respect to eh the volume of production,
and all other matters and things which together with information already available to the government will enable sound conclusions to be reached,
regarding the position of this and other branches of the textile industry,
"in relation to British and foreign competition,

Nous y sommes,

and the extent to which the employer can reasonably be expected to maintain employment over periods of temporary difficulty."

Voilà la question.

M. LE PRESIDENT: J'ai la traduction ici:

"et quant à la mesure où l'employeur peut être raisonnablement tenu de continuer l'emploi en temps de crise."

de donner du travail, de l'emploi temporaire. D'abord, on suppose une période de difficulté temporaire. Jusqu'à quel point peut-on demander à l'industrie de fournir du travail pendant ce temps-là, à perte pour la compagnie. Mais, il ne s'agit pas de perte.

Ce n'est pas la question. Onparle de sacrifice.

M. BEAUREGARD: On prend pour acquis que l'état d'une crise est indiscutable.

M. BALLANTYNE: La question est de savoir pour l'ampleur; de savoir si dans une période de crise temporaire comme nous l'étions, parce que dans le temps, en 1933 je crois, nous espérions que c'était une période de crise temporaire, mais le fait est qu'elle a duré trois ans.

M. BEAUREGARD: L'ordre en conseil, en 1936, servirait pour ce qui s'est passé en 1933.

M. LE PRESIDENT: EN 1936, il y a eu la fermeture et il y a eu enquête.

M. BEAUREGARD: En 1936 il n'y a eu aucune dépression. On appelle celà le temps du renouvellement, je crois que c'est juste. C'est un nouveau mouvement ascendant. En 1936 le gouvernement du Canada a fait la surprise d'une centaine de milles ouvriers sans travail. Il apayé des millions en secours directs. Je crois que le gouvernement du Canada considère encore que c'est un temps de crise et de difficulté. Le gouvernement pourvoit au public en pigeant dans le trésor public.

M. BEAUREGARD: La crise qui vient de se terminer est plus ou moins rapprochée et on dit qu'on est sur le côté ascendant, qu'il n'y a pas de crise. Nous venons de passer par une crise et cette crise n'est pas terminée. La période de récupération n'est pas non plus terminée. Le gouvernement est encore lourdement chargé de sans travails. Les industries non protégées sont encore dans un plus

grave danger.

M. LE PRESIDENT: Qu'est-ce que l'industrie aurait dû faire dans ce temps là, d'après vous? Les industries qui ne sont pas protégées par un tarifpeuvent mettre une réserve de côté pour une autre crise.

M. BEAUREGARD: L'industrie qui va se développer avec l'aide de protection doit certainement quelque chose en retour. Si l'industrie ne doit rien à personne, ni au pays, ni à l'administration qui l'a aidée à se tirer d'affaire, ni au consommateur, ni à l'employé, je voudrais dire que la protection n'est pas un privilège, n'est pas une faveur et un droit, pour certaines industries qui exercent à même du pouvoir d'achat du public.

Comme la question se pose je réponds telle qu'elle a été posée. Une industrie qui est protégée a une obligation. J'ai constaté, par exemple, que le présent ordre en conseil élevait l'obligation. Je me pose la question, je me demande si l'industrie qui a de la protection n'a pas une obligation. Pour répondre à la question de l'ordre en conseil, je prends ma réponse ici:

> "The minister is of the opinion that industry generally and especially an industry which has had for year the benefit of the protection afforded by the custom's tariff, should recognize it responsibility to carry on operations with due regard to its obligations to employees and to the public, and not to

arbitrarily shut down its plants."

Celui quia posé la question ne m'a pas demandé de dire tout celà. Celui quia posé la question ne me demande pas si j'affirme que c'est comme celà. Mais, ayant affirmé que c'est comme celà, je demande à savoir jusqu'à quel point c'est vrai. J'ai dit dans mon rapport que nous devrons attendre pour savoir si celà ne peut pas se rapporter à cause du fait de l'indivisibilité de l'industrie. Je parle de la composition diffirente de l'industrie du coton, de la laine, du tricot, Le ~~re~~ tarif n'agit pas de la même façon. Il se trouve que les bas ont un marché canadien de 98%. Il se trouve que le coton en a un au-delà de 75. Celui de la laine ne dépasse pas 56 ou 58. Ce sont trois sections de l'industrie qui ne sont pas dans la même situation pour répondre à la question. L'industrie de la soie en est une toute neuve, elle est récente bien qu'elle soit dans une vitalité manifeste, bien que les années 1927, 1928 et 1929 n'ont pas eu le temps de lui faire accumuler du capital, comme les industries plus anciennes, entre autres le coton. Il faut déterminer jusqu'à quel point l'industrie peut consentir à perdre de l'argent pour maintenir un peu de perte d'argent même quand c'est autant qu'elle en a. Maintenir des employés quand elle n'a pas les moyens de les maintenir. Faut-elle qu'elle les maintienne par reconnaissance? Il faut donc que chaque section de l'industrie, et dans certaines sections de l'industrie, ait droit à certains avantages individuels. Il faut que certaines compagnies sachent dans quelle

mesure elles sont représentatives et l'industrie à laquelle elles appartiennent, et de quelle façon elles doivent remplir, également, leurs devoirs. L'industrie était déjà dans les nuages avant même la dépression, ou dès même les premiers temps de la dépression. Les prix se sont mis tout de suite à lui amener du "gras". Certaines industries ont continué leurs affaires et ont perdu de l'argent. Dans le creux de la crise elle a commencé à réaliser certains bénéfices. Je parle particulièrement de la laine.

Cette question-là est allée assez loin pour maintenir l'importance dans le sens où on la voit ici. Est-ce que la laine a maintenu son importance pour répondre à une obligation? J'en doute pour celà. Elle a maintenu son impostance dans une mesure et à même de sacrifices que les autres sections n'ont pas connus. Le coton n'a pas fait de perte, a franchement, parler, comparativement à la laine. Le coton est l'industrie qui a fait le plus de réserve, quia plus accumulé de capital. L'industrie du coton, la Canadian Cotton, la Wabasso, la Dominion, auraient pu obtenir du capital à n'importe quel moment pendant la crise. Le public "at large" ne lui aurait pas refusé celà. Elles n'auraient eu qu'à faire un appel public et l'argent serait tombé dans leurs coffres.

M. BALLANTYNE: A quelle époque?

M. BEAUREGARD: A n'importe quelle époque, même aujourd'hui. La Dominion Textile aurait pu l'avoir facilement étant donné l'ampleur de son actif, les valeurs réelles de son actif. Cependant, c'est la compagnies qui ferme ses portes avant d'avoir perdu

une partie de la balance qu'elle compte encore aujourd'hui. L'ordre en conseil demande jusqu'à quel point. C'est évident, même en étant obligé de faire des sacrifices pour pouvoir se maintenir. Arrivée à la ligne de sacrifice, on peut dire que c'est la ligne de danger. C'est le moment où le capital peut venir en danger. C'est la ligne de division. On ne peut pas dire exactement à quel moment cette ligne apparait, à moins d'être expert. A moins de connaitre qu'elle sera la réponse de la banque, des bailleurs de fonds en présence de cette feuille de balance, à quel point la banque, le public, serait prêt à rendre de l'argent. Jusqu'au moment où cette ligne de danger est atteinte c'est le moment où la compagnie va mettre en danger son avenir. Je crois que c'est à ce point que l'on peut s'attendre à être en danger. Chaque compagnie ou industriel serait en opposition, pour ne pas perdre le reste de son capital, à ce qui est demandé au nom de la reconnaissance. C'est à ce que les industriels s'opposent, admettre la reconnaissance. L'industrie de la laine l'admet pour ne pas perdre le reste de son capital. Le porteur de débentures, le client, autant dire, ni n'iraient pas plus loin. Aujourd'hui, ne fut-elle pas en vue d'un danger extrême? Le capital n'a pas été mis en danger, alors, ils ont préféré fermer Sherbrooke. Probablement que l'industrie comme total n'a pas voulu répondre. L'ouvrier peut interpréter sa réponse comme en étant une indirecte, à savoir que c'est son devoir. Mais, quand on constate pour qui, pour quel motif elle a été invitée à faire son devoir,

c'est un motif indépendant et qui n'est pas en rapport avec la protection. Le point le plus grave est celui de la Dominion Textile parce que comme compagnie individuelle elle est celle qui peut aller plus loin là-dessus. Elle ne répond pas à la question posée par l'ordre en conseil. Les chiffres démontrent qu'elle pouvait aller très loin sans mettre sa vie en danger. Elle répond sans crainte, mais à ce point de vue elle n'a pas répondu.

M. LE PRESIDENT: Est-ce terminé?

M. BEAUREGARD: J'ai d'autres remarques.

M. LE PRESIDENT: Vous en avez pour combien de temps, à peu près.

M. BEAUREGARD: Une heure.

M. LE PRESIDENT: Si la session venait à se prolonger, il me faudrait le soumettre par écrit.

LA SEANCE SE TERMINA A 6 p.m.

ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

A.S. Whiteley, Secretary,

ONE HUNDRED AND THIRTY-FIRST DAY

(Tuesday, March 16, 1937)

A R G U M E N T

Robert Brydie,
Official Reporter

ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

A.S. Whiteley, Secretary,

Appearances:

J.C. McRuer, K.C. and E. Beauregard, K.C.	Commission Counsel,
R.L. Kellock, K.C.	For Primary Textile Co.
C.G. Heward, K.C. Aime Geoffrion, K.C. and C.T. Ballantyne,	For Dominion Textile Co.
S.G. Dixon, K.C.	For Courtaulds, Limited,
L.A. Forsyth, K.C.	Canadian Celanese Ltd. and Canadian Silk Products Limited.
Francois Lajoie, K.C.	For Wabasso Cotton Co.
A.S. Bruneau, K.C. and G.A. Campbell, K.C.	For Canadian Cottons.

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Ottawa, Ontario.
Tuesday, Mar. 16,
1 9 3 7.

-- The Commission met at 10.30 a.m.

ARGUMENT by Mr. BRUNEAU (resumed):

On Friday I thikk we had finished dealing with the capital structure of the company and its profits, and I want to touch very briefly on three or four subjects that were dealt with in other parts of Mr. McRuer's brief. I think we had already mentioned in the course of the argument the costs of production which are dealt with at page 251. The company's costing system was installed by an organization known as Ralph E. Loper Company, of Fall River, and in this respect the company has gone to the outstanding cotton mill cost accountants on the continent. Their figures are vased on the normal full time production of the previous year, and I am instructed that for practical purposes this is as reasonable a basis as possible and serves as a chart to steer by, the tables showing the allowance which should be made for each cent increase of raw cotton and for most of the other variable factors, so that as a chart it is perhaps the most convenient that can be obtained at a practicable expense. It cost us about $20,000 to install this system. Full explanations were given to Mr. Cooper by Mr. Tolmie and Mr. Brown, and the matter was also discussed with Mr. Howson; so we were rather surprised to find on page 417 that Mr. Hooper was unable to find any cost system in Canadian

Cottons Limited.

MR. McRUER: That was his evidence. You do not find it at page 417.

THE COMMISSIONER: You said, Mr. Hooper.

MR. BRUNEAU: Yes, we were rather surprised to find it in his evidence.

THE COMMISSIONER: Are you sure it is Mr. Hooper you mean?

MR. McRUER: Both Mr. Hooper and Mr. Howson gave evidence.

MR. BRUNEAU: That he was unable to find any costing system in Canadian Cottons Limited. And at page 248 we were equally surprised to find the statement that in this matter there was no possibility of doing anything with Canadian Cottons Limited, although I recollect at the argument Mr. McRuer conceded that our company was not in any different position from any of the others.

MR. McRUER: Oh no, I did not concede that.

MR. BRUNEAU: Well, I thought that was --

MR. McRUER: No, no.

MR. BRUNEAU: It shows I had better go over the record.

MR. McRUER: It is in a different position than Penmans, for instance, quite different.

MR. BRUNEAU: In the course of the argument that is my recollection of what was said.

MR. McRUER: And a different position that Dominion Textiles.

MR. BRUNEAU: We had given instructions to Mr. Brown to put himself fully at the disposal of the Commission, and my understanding was that he had done so to the fullest possible extent.

Mr. McRUER: Mr. Brown did not know the first thing about your costing system. He was brought in to prepare these things.

MR. BRUNEAU: When this subject was raised I had made that remark, I interposed for that purpose, and my recollection is that I was assured at that time that we were on no different basis than the other companies.

MR. McRUER: Oh no, you cannot find that in the record, I am sure.

MR. BRUNEAU: That was, perhaps, in a good natured moment.

MR. McRUER: No, not in a good or a bad moment. I have no "nature".

THE COMMISSIONER: Have you any evidence of your own?

MR. BRUNEAU: No, there is no particular evidence. I have seen these books, about twenty-four large volumes occupying a very considerable space, in which the costing system of the company is entered, and Mr. Brown has prepared a table showing the actual costs for the fiscal year which ended March 31, 1935, as against the standard costs for that year, and the difference is that the actual cost --

MR. McRUER: Now, is this in evidence?

MR. BRUNEAU: I have no objection to producing it.

MR. McRUER: But this is a subject we have gone into very carefully and thoroughly, and Mr. Hooper gave his evidence. Mr. Hooper gave his evidence, and we discussed costs, and I cross examined Loper for nearly a day on it, and to come now with anything which suggests the costs of these companies and to put in an argument on that is --

MR. BRUNEAU: I am instructed by Mr. Berry that Canadian Cottons Limited was never mentioned by Mr. Loper in his evidence.

MR. McRUER: Oh, I mentioned his system of putting them in, and discussed it with all the companies, and I am not so sure that Mr. Berry is right on that, that Canadian Cottons' name was not mentioned in the course of it.

MR. BRUNEAU: The only thing, this table shows our actual cost 2.7 higher than the standard costs.

MR. McRUER: That is the very point, you see. The only thing is it shows your actual costs, you say. We could not find any "actual costs".

MR. BRUNEAU: The actual costs at the end of the year.

MR. McRUER: Mr. Hooper and Mr. Howson gave evidence that you could not show them your actual costs. Now it is a most extraordinary procedure to come forward with a table, in the face of evidence

that has been given here, and for counsel to say "these are our actual costs." I cannot understand that method of proceeding at all.

MR. BRUNEAU: The evidence as a whole will speak for itself on that, but I suggest that to say that any such statement was made, that we had no costing system, is not in accordance with the facts.

MR. McRUER: You have not offered any evidence in respect to it.

MR. BRUNEAU: We certainly were not examined on that point.

MR. McRUER: Of course they were. Mr. Howson was examined on it.

THE COMMISSIONER: By whom?

MR. McRUER: By Mr. Kellock. Mr. Kellock was appearing for Canadian Cottons at different times in this inquiry, and cross examined on the Canadian Cottons reference.

MR. BRUNEAU: However, I am instructed that we can always obtain our actual costs after the year is over. That is the difference. We do not have a statement of the actual costs as the work is progressing. That is the sole difference.

MR. McRUER: Mr. Hooper said at different times he tried to get the Canadian Cottons costs and was not able to get them.

MR. BRUNEAU: There is no reason why he should not have got them. Not the slightest reason.

MR. McRUER: There is good reason. He gave

evidence about it. That is what he was sent there for.

THE COMMISSIONER: Where do we find Mr. Hooper's statement? Because anything he said he said in the presence of counsel.

MR. McRUER: Mr. Hooper stated at page 12,238 that he was unable to find any cost system in Canadian Cottons Limited.

MR. BRUNEAU: Well, I have seen twenty-four volumes with my own eyes.

MR. McRUER: Mr. Bruneau is not giving evidence, and if he were I would cross examine him, because it is a different thing to have a lot of volumes tucked away from having a cost system which will tell you what the costs are. Now this is the cross examination, starting at the foot of page 12,237:

" By Mr. Kellock:

Q. What you say is, Mr. Hooper, as I understand it, is that by reason of that fact in the case of the Dominion Textile Company only, and you recall that the Canadian Cottons make this fabric you are speaking about as well as the Dominion Textile? A. Yes.

Q. You don't know what the situation is that prevails there? A. You mean what their costs are?

Q. Yes? A. I don't know and they don't know.

Q. All right, that is what you say? A. Because I have not been able to find any costing system."

They are talking about the Canadian cottons there.

MR. BRUNEAU: I did not think he would report for a moment, if his evidence is taken as a whole, that there was no costing system in that form. He may not have been able to find in 1936 --

THE COMMISSIONER: Can you show me where he qualifies that statement in any respect?

MR. BRUNEAU: I have not read that evidence.

THE COMMISSIONER: There is a mass of this evidence. This is brought out in cross examination of Mr. Kellock. He might very well have adduced evidence to show there is some mistake in this statement.

MR. BRUNEAU: He is discussing one article.

THE COMMISSIONER: It is rather late to come in now --

MR. BRUNEAU: He is discussing the cost of one article, and he says, "I cannot find the cost of it"; and we state "It is true that in 1935 we have not got available the cost of any article that is then being made, but we based it ourselved on the cost of normal production in the previous year.

THE COMMISSIONER: Well, where is the evidence about that?

MR. BRUNEAU: Well, that is our cost system.

THE COMMISSIONER: You are telling me that now, you see. We have been sitting a year, and there was lots of time to put in evidence on those points.

MR. BRUNEAU: That particular thing was not

brought to my attention.

THE COMMISSIONER: But the question of costs is very prominently set forth in the commission. I mean it is not merely an incidental question; it is one of the enumerated things to be inquired into. You all know that.

MR. BULLEN: It is a fact I thought I should advise the Commissioner of, that there was a costing system made use of, that we were not without a costing system, and that if that statement was made it was one that ought to be corrected. And I merely, in order to complete my remarks, gave the basis on which it has been made; and I do not think there is any dispute about it.

MR. McRUER: Mr. Howson's evidence at page 12,924: he has been cross examined again here.

THE COMMISSIONER: By Mr. Kellock?

MR. McRUER: Just a moment -- cross examined by Mr. Heward in this instance:

" Q. You have no complaint about the efforts they have made? A. No, the Dominion Textile Company have given us every cooperation they possibly could.

Q. And as far as Canadian Cottons is concerned it is just a blank there. You cannot even make a start. "

Now, that might have been my examination. Yes, this is my examination.

"A. No, there is no possibility of doing anything with the Canadian Cottons.

Q. Well now, what about the other companies you have dealt with? A. Montreal Cottons did not make a return under 14A, yes.

Q. And you got a return from them?

Mr. Howard: Which company?

Q. Montreal Cottons."

And then he goes on and talks about Penmans. That was when we were examining on this very subject of costs.

MR. BRUNEAU: At any rate, I am instructed that to prepare any statement of costs for a company that has been manufacturing thousands of lines -- I think that has already been given by the Dominion Textile -- would be a long and costly process which would serve no particular purpose. I would be quite satisfied for Mr. Howson to prepare such statements of actual costs if he thinks it practicable and possible to do so, and to open all records of our mill for his inspection for that purpose -- at the expense, naturally, of his clients.

MR. McRUER: It was in view of that statement that I had the check-up of costs made, just to see whether they were working near or close, and there is a difference of 2.7 per cent.

MR. McRUER: It depends on the basis and everything else.

MR. BRUNEAU: From the standards and the actual

costs after the year has been completed. The depreciation is taken up, page 251, and on that point all I have to say is that the amounts written off were in accordance with standard practice as approved by the income tax department. Combines are dealt with at page 312. That subject has already been disposed of by Mr. Kallock, and I do not intend to go after it further.

During the argument I corrected the statement, at page 358, as to municipal assessments, where it was stated that we enjoyed a fixed assessment in the city of Cornwall, whereas we have no agreement whatsoever at this point as regards municipal taxation.

Then, at page 393 we are reproached for not including discounts taken on our inventories as profits before the price spreads commission, and our submission is that the profits have not been earned on these inventories until the goods have been sold, and to count these profits before such sales was simply to count the chickens before they were hatched.

MR. McRUER: Oh, but you discounted them next year at a larger rate than you did the year before or after.

MR. BRUNEAU: I am instructed that this question is going to come up in a moment. We disclosed fully to the price spreads commission everything we were called upon to disclose.

MR. McRUER: You couldnot discuss that there was an inventory reserve.

MR. BRUNEAU: I will discuss that in connection with income tax -- just the same question.

Then as to wages, I do not propose to enter into that. Our wages were treated in substantially the same way as some of the other companies. I have already discussed the matter. That is to say there was a 10 per cent net. His Lordship knows that in 1933 after three years of continued loss, and after all we must remember that at the time at which that cut was made the business was faced with the most chaotic conditions which probably had ever prevailed in Canada, if not in the world. As soon as, in 1934, the air cleared to some extent, 5 per cent was reinstated, and complete reinstatement took place in all cases by December 1936. The Dominion statistics have shown that the cost of living had fallen in 193 by 25 per cent at the time we made this 10 per cent cut and that when we restored half, the cost of living was still down by approximately 20 per cent. I think at any rate that it is fair to the company to point out that the depression which took place from 1929 on was a very major affair, and wage cuts of a much more substantial nature had been general throughout Canada, and many workers in industries and offices were exposed to much more severe reductions than those in our company.

Then the last thing I mentioned in the brief is the statement at page 415 that employers arbitrarily denied to employees the right to organize in their own

interests. I do not know the practice and cannot speak for all employers, but as far as we are concerned we have never denied any such right.

MR. McRUER: Is your company willing to negotiate with organized labour and make collective bargains?

MR. BRUNEAU: As a matter of fact I will say this: what I am instructed to state is that we have never denied such rights. Itis certainly not in accordance with the facts to say that we have; there is no question of any such right having been denied.

MR. McRUER: But I am asking, for the purpose of the record, is your company willing to negotiate with organized labour and recognize collective bargaining?

MR. BRUNEAU: I thought you did not wish me to give evidence on standard costs, a minute ago.

THE COMMISSIONER: This is not evidence. Are you prepared to make any statement on behalf of your company as to your company's attitude towards organized labour?

MR. BRUNEAU: Well, it has never denied any right to its employees to organize. That has never been in question.

THE COMMISSIONER: I takeit that you are not authorized to make any statement.

MR. BRUNEAU: I am not authorized to make a statement because we do not know the form in which the question could come up. I do not see how it would be possible for me to make a statement at this

time, but certainly we can make this statement, that we have never denied to these employees any such right.

MR. McTULR: Because in your case the employees have never asserted it. Have they asserted it?

MR. BRUNEAU: I am not quite sure about that. I think there may be some mill organizations, and we have no objection to dealing with them.

Now we come to the question of taxation which I am entering into under reserve of an objection which will be discussed fully by Mr. Campbell. The company has at all material times carried its raw cotton at a fixed arbitrary price without regard to the fluctuations of the market. That is the actual fact. It has carried its finished goods, which includes certain unfinished goods off looms, at the listed selling price, that is the price at which the company is trying to get its purchasers to buy, less a substantial discount; and it has always applied a similar discount to the goods in process. Now it is clear that it would have been wrong to carry these goods at their listed selling price. Many items of expense still have to go into them. Goods in process, for instance, have to be completed. The goodss off looms, even when taken off the looms, require ~~to~~ finishing, dyeing, napping, amongst other processes; and even the goods that are called finished goods have to cover selling costs, contribution to overhead expenses, unearned profits; and on these listed selling prices there were cash discounts; and they were affected also by the amount of the seconds, the extent

to which goods would not come up to quality, jobs, and a variety of other claims which would reduce these amounts. No one would expect the company to value its inventory at listed selling price, and the management each year made an estimate of itsvalue by taking a discount off the listed selling price. Now, at the stage when this began, it was certainly a difficult matter to ascertain the costs. The costing system which is at present installed was not available in those days. It was a much more hit and miss affair. It is now claimed that the discounts from 1916 were too large and that we should have made a better and more accurate estimate. That is the head and front of our offence. This discount, I want to show in the first place, was not a new departure when the taxing statutes were first passed. In the course of Mr. McRuer's brief the figures for the total amount of the discount begin with 1916, but they only begin with 1916 because the previous discounts have been accepted as proper and reasonable.

Mr. McRUER: Where is the evidence of that?

THE COMMISSIONER: Pardon me a moment -- accepted by whom?

MR. BRUNEAU: Well, whoever prepared these figures has only taken the 1916 figures for that reason.

THE COMMISSIONER: But you are dealing with this question of taxation again, are you not?

MR. BRUNEAU: Yes.

THE COMMISSIONER: Well, that began only in 1916.

MR. BRUNEAU: Well, but the War Profits Act was

passed in 1916 and it was retroactive to March 31, 1914.

THE COMMISSIONER: You say that for the first year there was no question raised: isthat what you say?

MR. BRUNEAU: I say that the discount was not a new departure. It had been in force at least since 1910.

MR. McRUER: Where is the evidence of that? You say the figures were accepted as reasonable by the person who prepared the statement. The person who prepared the statement was Mr. Brown.

MR. BRUNEAU: The statement has been used and accepted. Of course Mr. Brown did not prepare it alone. It was prepared in cooperation.

THE COMMISSIONER: Whose business was it in 1910? There was no tax then.

MR. BRUNEAU: Even when there was no tax we carried a discount.

THE COMMISSIONER: Pardon me — it was the company's own business?

MR. BRUNEAU: Yes, my lord.

THE COMMISSIONER: And the only one who would have the right to know more about it would be the shareholders?

MR. BRUNEAU: Yes.

THE COMMISSIONER: So what is the point in going back prior to the taxation?

MR. BRUNEAU: I want to show that these discounts were being taken in 1910 and were very likely

in force before that time.

THE COMMISSIONER: You merely want to show you did not change anything on that point?

MR. BRUNEAU: We did not change the system.

THE COMMISSIONER: But that is not the whole point. The question is whether that system was a satisfactory one from the point of view of new taxation imposed. You see you can do what you like in your own business and with your own associates so long as there is nobody after you looking for taxes.

MR. BRUNEAU: I think itis agreed that some discount from listed selling price is necessary. I do not think anybody expects us to carry it at that figure. And what we did in 1910, the inventory book is here and I am prepared to open it, and it shows that on April 1st, 1910 the company's inventories were subject to a discount of 10 - 5 - 5 per cent, which means 18.775.

MR. McRUER: No, no. The extent of the 10 - 5 - 5 per cent is 10 per cent off the listed selling price?

MR. BRUNEAU: Off the listed selling price.

MR. McRUER: Off what class of goods? I just want to get it on the record, because we later get them as high as 70 per cent. I want to get on the record what you say they were in 1910.

MR. BRUNEAU: Manufactured goods.

MR. McRUER: Manufactured goods were what?

MR. BRUNEAU: 10 - 5 - 5.

MR. McRUER: Ten per cent off what?

MR. BRUNEAU: Off the listed selling price.

THE COMMISSIONER: These are the manufactured goods going into your inventory?

MR. BRUNEAU: Yes.

THE COMMISSIONER: They went in at these reductions?

MR. BRUNEAU: They went in at these reductions of 10 - 5 - 5, a percentage of 18.775.

MR. McRUER: What do you mean by 10-5 - 5? Why the three figures?

MR. BRUNEAU: I do not know why they have 10 - 5 -5. I suppose they covered certain elements the were taking into consideration. But that is the way it starts.

MR. McRUER: That is meaningless to me. I want to know what the 10 is off, and what the 5 is off, and what the following 5 per cent is off.

MR. BRUNEAU: They were all off the same thing. The listed selling price was reduced by 10 per cent; another 5 per cent was taken off that reduction; another 5 per cent was taken off that; and here it is.

MR. McRUER: Do you know that?

MR. BRUNEAU: Yes, I do.

MR. McRUER: Where is your listed selling price?

MR. BRUNEAU: The totals are shown less 10 - 5 - 5 per cent. The number of pieces, and the prices.

MR. McRUER: W here is the reckoning of the 10 - 5 - 5?

MR. BRUNEAU: Here it is. (Pointing to contents of document produced by him). For instance you have this Ontario mill: April 1st, $56,450.74. There is a deduction of $10,598.34.

MR. McRUER: That does not tell us how it is reckoned.

MR. BRUNEAU: You will find that 18.771 into $56,450.74 is in fact $10,598.34.

MR. McRUER: Is it?

MR. BRUNEAU: Oh yes.

MR. McRUER: 18 per cent of $56,000, is it $10,000?

MR. BRUNEAU: Yes, you will find it right through.

MR. McRUER: What I do not understand is this 10 - 5 - 5.

MR. BRUNEAU: You take off 10 per cent; then you subtract 5 per cent off the reduced amount, and 5 per cent off that.

THE COMMISSIONER: If the unit is, let us say, one hundred dollars, you take off 10 per cent, leaving nisety dollars; then five per cent off that leaving eighty five and a half dollars, and then you take another five per cent off eight-five and a half dollars.

MR. BRUNEAU: Yes. So that it works out substantially less than 20 per cent.

MR. McRUER: Take "supplies" on the same page.

There seems to be no deduction there.

MR. BRUNEAU: No deduction off supplies.

THE COMMISSIONER: Are these three figures taken at different places?

MR. BRUNEAU: No, they are taken all at once.

THE COMMISSIONER: Where?

MR. BRUNEAU: On the inventory book.

THE COMMISSIONER: There is nosuch thing as 10 per cent being taken off in the mill and 5 per cent some place else?

MR. BRUNEAU: No. At least these were taken off at head office. Ido not know. This is the head office record with the inventory taken off at 10 - 5 - 5 per cent.

MR. McRUER: Cotton process. What is it?

MR. BRUNEAU: That just applies to the manufactured goods. In 1910 that applies only to the manufactured goods.

MR. McRUER: So there was no writing down of supplies or cotton in process?

MR. BRUNEAU: No.

THE COMMISSIONER: At that figure were they taken in?

MR. McRUER: I suppose at cost. You see you want to get this clarified. You just denied doing what had been done before. I want to get it clarified, and you produce this document tofind out what it was. Nowwe have got it that manufactured goods were taken at list less 10 - 5 - 5. All the others were taken

at cost, were the y not?

THE COMMISSIONER: Did not the Textile Company talk about some progressive --

MR. McRUER: Yes, my lord, they had a different system, a greatly different system.

MR. BRUNEAU: No, it means we have taken off nothing in 1910 other than manufactured goods.

(Page 18525 follows)

THE COMMISSIONER: How were the others put in, at cost or market value?

MR. BRUNEAU: I take it they are taken at cost.

MR. McRUER: Then, let us go to 1914.

MR. BRUNEAU: Before that I would like to take 1911.

THE COMMISSIONER: That is nailed down hard and fast then, is it? In 1910 you take off these three discounts you mention on manufactured goods. You put in goods in process at cost and you have put in your raw material at cost; that is right?

MR. BRUNEAU: That appears to be the fact from the book.

THE COMMISSIONER: That is the starting point.

MR. BRUNEAU: In 1911 we take a further discount of 10% off manufactured goods.

THE COMMISSIONER: That is 10, five and five and another ten?

MR. BRUNEAU: Yes, in 1911.

MR. McRUER: I see in 1911 it is marked less 20%.

MR. BRUNEAU: No, that is October. I am taking them at March. They were half yearly but the ones that concern us are at March.

MR. McRUER: Did you do the October ones differently than March?

MR. BRUNEAU: I do not imagine so, but if there was a change made --

MR. McRUER: This is April, the one I have got, 1911. That would be the one for the March statement surely.

MR. BRUNEAU: Ten, five, five and ten.

MR. McRUER: There is a lead pencil mark written in; when were these lead pencil marks put in?

MR. BRUNEAU: These tally completely with the entries right through.

MR. McRUER: It is written in ink, less ten, five and five, and then there is "and ten" put in in lead pencil.

MR. BRUNEAU: That was taken off the same year.

MR. McRUER: And marked "agents none"; what does that mean?

MR. BRUNEAU: That would be manufactured goods in the hands of agents. Those are the figures that tally with the balance sheet of the company at that time.

MR. McRUER: It would be interesting to know why they went over in lead pencil afterwards and took an extra ten per cent.

MR. BRUNEAU: The only suggestion I can make is that 1911 was the year of the reciprocity agreement and these people might think their inventories would be affected, and they took an extra ten per cent off.

MR. McRUER: What was the date of the election?

MR. BRUNEAU: September.

MR. McRUER: When did they go to the country?

MR. BRUNEAU: September.

MR. McRUER: But this was done in April.

MR. CAMPBELL: The campaign was on for months.

THE COMMISSIONER: For months; the reciprocity agreement was brought to Parliament some time in the winter of 1911.

MR. BRUNEAU: I think these people rightly or wrongly may have been frightened at the possible effects.

MR. McRUER: I think likely what it was was this, that their balance sheet would be coming out about the 1st of May, and that they had done just exactly what they did in 1936, and that is they went back and wrote down the inventory and consumed some of the profits so they would not show in the balance sheet.

MR. BRUNEAU: There was no question of taxation then.

MR. McRUER: No, but it would be a question of the profits of the company being discussed in the campaign.

MR. BRUNEAU: Some time between the actual company's statement and the taking of the inventory that extra discount of 10% was taken in 1911 which made a discount, off the manufactured goods again, of 26.8975.

THE COMMISSIONER: And the other two, goods in process and raw material --

MR. BRUNEAU: Remained the same.

THE COMMISSIONER: At cost.

MR. BRUNEAU: As to the goods in process, that

always has been a most difficult thing to estimate, the exact nature of the goods in process. Itmust have been an estimate. It couldn't be anything else.

THE COMMISSIONER: An estimate of the cost.

MR. BRUNEAU: Yes, it would probably be an estimate of their value.

THE COMMISSIONER: But the raw material was put in at actual cost.

MR. BRUNEAU: Yes, raw cotton was carried at actual cost right down to 1915.

MR. McRUER: I see in October they took it in at 19%, manufactured goods were less 19%. The election was over then.

MR. BRUNEAU: Yes; in 1912--

MR. CAMPBELL: They had lost their fears, Mr. McRuer.

MR. McRUER: They had hopes.

MR. CAMPBELL: Possibly they had hopes.

MR. BRUNEAU: In 1912 the discount was 19%. They abandoned this system of ten, five and five and carried it straight at 19% on manufactured goods.

MR. McRUER: 1912?

MR. BRUNEAU: April 1st, 1912.

MR. McRUER: It shows it is 19%.

MR. CAMPBELL: That is what he said.

MR. BRUNEAU: In 1913, 1914 and 1915 the round figure of 20% was used, right through those three years, 20%, which is the figure now suggested as being the proper one. So that while there was a discount in those years that has not been taken into consider-

ation in the figures of our inventory discounts submitted to the Commission because it is not questioned.

MR.McRUER: It is on the basis of 20% which the Commission auditors were willing to allow as the difference between the list price and cost.

MR. BRUNEAU: Yes. Then, on March 31, 1916, and that is before the Business Profits War Tax had been passed, the discount --

MR. McRUER: When was it introduced in the House?

MR. CAMPBELL: May, it was passed in May.

MR. McRUER: When was it introduced into the House.

MR. BRUNEAU: I think you will find that was introduced at the Budget because they do not introduce these taxation provisions with any notice to the public.

MR. McRUER: No, not as a rule.

MR. BRUNEAU: That is the date when I think the budget -- it has been about normal.

THE COMMISSIONER: It would be very easy to ascertain when the budget was brought down that session.

MR. BRUNEAU: But, the Act is sanctioned --

THE COMMISSIONER: The Act comes later. The Budget announces a lot of things and then there is legislation later on to make them law.

MR. BRUNEAU: At any rate, you will find on March 31, 1916, before the act had been passed --

MR. McRUER: Well, we will find out the exact date; that is easy.

MR. BRUNEAU: -- the discount was 25% on finished and unfinished goods in process. That is to say it was a discount well within what had been taken in 1911.

THE COMMISSIONER: 25%?

MR. BRUNEAU: 25% on March 31, 1916.

THE COMMISSIONER: On what?

MR. BRUNEAU: On finished goods and also on the goods in process.

THE COMMISSIONER: This is the first time we hear of any definite discount on goods in process.

MR. BRUNEAU: This is the first time there is any discount on goods in process.

THE COMMISSIONER: What about the raw material?

MR. BRUNEAU: The raw material is carried at exactly the same figures as on March 31, 1915.

THE COMMISSIONER: At cost again.

MR. BRUNEAU: On March 31, 1916 you will find in the inventories that each mill carries its stock of raw cotton and each carries it at the same price as it carried it at March 31, 1915, the year before. The amounts are different in some mills from the amounts previously but on the whole the company maintains approximately the same amount, 12,000 bales or six million pounds of cotton. It has that on hand on March 31, 1914, 1915 and 1916, and the only change it makes in 1915 is that although the prices have begun to rise it maintains that raw cotton on its inventories at the same prices as it took it in on March 31, 1915.

THE COMMISSIONER: You said the only change made in 1915; you meant 1916.

MR. BRUNEAU: 1916, yes. 1916, the discount is increased to 25% and is applied to the goods in process.

THE COMMISSIONER: Raw cotton is left at the same figure as the year previously.

MR. BRUNEAU: Exactly; that is the set-up.

THE COMMISSIONER: Do you know whether that figure corresponded to the cost figure or market value?

MR. BRUNEAU: The 1915 figure was the cost figure.

THE COMMISSIONER: And it happened to be the same cost figure as the year previous?

MR. BRUNEAU: 1915 was cost --

THE COMMISSIONER: I mean the next year you take the same figure as 1915.

MR. BRUNEAU: Yes.

THE COMMISSIONER: Was it in reality your cost figure?

MR. BRUNEAU: It was not the cost that prevailed throughout that year because the cost was rising.

THE COMMISSIONER: I would assume the cost would be rising. The War was well on.

MR. BRUNEAU: The War was going on. The situation was changing and the company had had six million pounds of cotton in its inventory at March 31, 1915 and it had approximately, within a very few pounds, six million pounds of cotton on March 31, 1916,

and it continued to carry that as sort of capital at the March 31, 1915 prices.

THE COMMISSIONER: Yes, although --

MR. BRUNEAU: That may be right or wrong, but that is what is done.

THE COMMISSIONER: The figure then would probably be below the market value.

MR. BRUNEAU: Yes, I think the market values have been ascertained.

THE COMMISSIONER: And probably was below your cost as well.

MR. BRUNEAU: Yes, my lord, unless we take it --

MR. CAMPBELL: They carried forward the basic quantity.

MR. BRUNEAU: Unless there is anything in this theory of carrying forward the basic quantity and saying what we used during the year was new stuff, and we are entitled to carry forward our capital of six million pounds which we used in our business at the price at which it stood at the beginning.

MR. McRUER: Well, Mr. Brown's calculation shows that the valuation he put on it was 12.30 a pound and the valuation used by the Canadian Cottons was 7.80 a pound.

MR. CAMPBELL: What year?

MR. McRUER: 1916.

MR. BRUNEAU: You will find some fluctuations.

THE COMMISSIONER: Give me the figures again; valuation of what?

MR. McRUER: Of the raw cotton.

THE COMMISSIONER: Is what?

MR. McRUER: Mr. Brown puts the valuation on in his computation of what he said was in his opinion the proper one, $12.30 --

THE COMMISSIONER: Twelve dollars?

MR. McRUER: No, was 12.30 cents and the other 7.8 cents a pound.

THE COMMISSIONER: What is the other?

MR. McRUER: The valuation used by the Canadian Cottons.

MR. BRUNEAU: Now, you will see in these figures used on page 369 that there is some slight variations from 1916 to 1920 but that is because there are different quantities in each mill. Each mill had somewhat varying prices; one might have it at 8.50 and another at 9.45, and each year one mill might have more than the other. So if you take the total prices together there are minor fluctuations but what happened was that each mill carried whatever supply it had at the same prices as it had carried it on March 31, 1915.

MR. McRUER: Mr. Bruneau, in reference to the valuation put on the manufactured goods, the discount for this year, Canadian Cottons, was 25%.

MR. BRUNEAU: 1916.

MR. McRUER: In 1916; that is on the 1st of April, 1916.

MR. BRUNEAU: Yes.

MR. McRUER: Page 181 of this book shows the

discount for the Cornwall& York Mill on manufactured goods, that they took 15%.

MR. BRUNEAU: In 1916?

MR. McRUER: In the same year, yes.

MR. BRUNEAU: They were run as a separate company.

MR. McRUER: What is the difference between the two? Why is one company 25 and the other 15?

MR. BRUNEAU: Are you sure that is right? I haven't looked into the Cornwallx and York because that didn't come in particularly.

MR. McRUER: Well, that is some manufactured goods. Goods in process, there seems to be nothing taken there and here we have goods in process again, there seems to be no deducti n, and then manufactured goods on the next page --

MR. BRUNEAU: Here are some less 25%.

MR. McRUER: No, that is 20, I think.

MR. BRUNEAU: Isn't it 25? Yes, it is 20%.

MR. McRUER: 20%. Then we come to Cornwall and York again here, less 15%.

MR. BRUNEAU: Here are some less 20%.

MR. McRUER: Goods in process less 20.

MR. BRUNEAU: Goods in process less 20.

MR. McRUER: That is manufactured goods less 20; what would be the difference between the different mills? Have you any idea?

MR. BRUNEAU: This was run as a separate, independent company.

MR. McRUER: But the method of valuation of inventory; what would be the reason for the difference? Then, we get machinery repairs, I don't know what that is. Supplies for machinery repairs, they are 12 per cent and seven per cent. I don't know what that is.

MR. BRUNEAU: Those are minor, and they must have made some changes in that year, but they kept on more or less on the same basis.

Now, the Business Profits War Tax Act was passed on the 18th of May, 1916 and was retroactive so that the company had to file returns for all financial periods ending after December 31, 1914, and returns were accordingly filed for the period ending March 31, 1915. The first returns were very summary and occuipied one line only. A sheet showing the profits of the company and the audited balanced sheet were attached and the company was taxed substantially on their audited balance sheets. For the year ending the 31st of March, 1917 the company made up its inventories for the first time after the coming into force of the Business Profits War Tax Act which came into force in May, 1916. Now, we come to March 31, 1917. No new departure was made as to raw cotton. Just as in the previous years --

THE COMMISSIONER: It was put in at the same price.

MR. BRUNEAU: Taken in exactly at the same price.

THE COMMISSIONER: Was the market price of it continuing to rise?

MR. BRUNEAU: The market price was still rising.

The quantity was again within a few pounds the same as had been in the company's hands at that time the previous year.

MR. McRUER: Mr. Brown's figure for that year for raw cotton as to what in his best opinion was the correct valuation, was 16.5 cents a pound and the valuation used was 9.25 cents a pound.

THE COMMISSIONER: Does Mr. Brown in arriving at that figure give the market value at that time?

MR. McRUER: He says he took the average cost of it over the period of years. I think that is my recollection -- over each year.

THE COMMISSIONER: The average cost during the year.

MR. McRUER: During the year; he took that as what, in his opinion, was the proper basis.

THE COMMISSIONER: You mean the average cost or average market value?

MR. McRUER: Average cost.

THE COMMISSIONER: Actually paid by the company.

MR. McRUER: Yes.

MR. BRUNEAU: That was the figure he was requested to ascertain, and did, for the purpose of this inquiry.

THE COMMISSIONER: If he could get at that -- that is, he apparently is brought here and can show the average cost to the company for the year of the raw cotton it bought.

MR. BRUNEAU: He was asked to do that and he did it for this Commission.

THE COMMISSIONER: Also we have the market value

of cotton.

MR. McRUER: No, he was not asked to do that at all. Mr. Brown did it and he was put forward by Mr. Dawson at Montreal as the man that could tell us exactly what the position was, and how it was done, and then he came forward and gave evidence and I examine him on what he had done. He had not done it at our request at all, and I asked him for his figures or basis on which he considered it ought to have been done, and he said yes, he said he was trying as nearly as possible to get at what was accurate.

THE COMMISSIONER: Anyhow he did it. He got their average costs for the years. Then, you have that. Then, we also have, we know the market quotations for that year, for those years.

MR. McRUER: Yes.

THE COMMISSIONER: We have both the market value and the cost.

MR. BRUNEAU: We have seen in 1917 no new departure was made as to raw cotton. Discounts on the goods in process and the finished goods were, however, increased to 40% so that --

THE COMMISSIONER: Please repeat that statement.

MR. BRUNEAU: Discounts on the goods in process and the finished goods the year previously had been 25%. This year it was increased to 40%; that is, another 15% was taken off.

MR. McRUER: Well now, just before you get any further with that. This book I am looking it that you have produced which I presume is the inventory

book, at page 203 commences with a list, what is apparently a list of the inventory and it starts off and it has written "less 25%". It continues there --

MR. BRUNEAU: Well,--

MR. McRUER: Just a minute till I get this in the record. You have put this forward. It continues from page 203 to 214, and the discounts taken are 25%. The date is marked as the 14th of April indicating the date on which it was written up, and then a red pencil is drawn through each of these pages, 203 to 214, and they apparently have re-written the inventory commencing at page 215 and taken off discounts at 40%. It seems to be a re-copying on the inventory that had been taken and calculated all through.

THE COMMISSIONER: Not a re-copying.

MR. McRUER: They have copied the details of the inventory but made the deductions at 40% instead of 25%.

THE COMMISSIONER: On a different basis.

MR. BRUNEAU: Yes, they changed their mind on that and increased the discounts from 25 to 40.

MR. McRUER: Now then, I have got the date on which the 1916 budget was brought down and it was brought down on the 15th of February.

MR. BRUNEAU: The 15th of February?

MR. McRUER: Yes, 1916.

MR. BRUNEAU: Did that include the Business Profits War Tax Act?

THE COMMISSIONER: It would include new taxation. You can find it, of course, but I would assume that to be so.

MR. BRUNEAU: They had powers --

MR. McRUER: Look at Hansard of the 15th of February, 1916.

MR. BRUNEAU: They had very special powers during the War.

MR. McRUER: We will find that out.

THE COMMISSIONER: The powers they had in War time were in that War Emergency Act. They were exercised when the House was not in Session. During all this time the house was in session. You will find the budget brought down in February and then the legislation assented to in May. That means the House was sitting all that time. This being a tax it would be brought down in the Budget.

MR. BRUNEAU: The main change took place in 1917 when the discount rose from 25 to 40%.

THE COMMISSIONER: What is that?

MR. BRUNEAU: The main change was the one that was made in 1917.

THE COMMISSIONER: Change by whom, by the company?

MR. BRUNEAU: By the company, when this discount was increased from 25 to 40%.

MR. McRUER: I would not say that. I think the main change was made in 1927 when it was increased from 40%.

MR. BRUNEAU: I mean at this stage; we are coming to that.

THE COMMISSIONER: We are talking of the War Profits.

MR. BRUNEAU: We are just dealing with the Business Profits War Tax Act.

Now, that change from 25 to 40% was, in fact, definitely disclosed to the Government because we find that for the first period in which the company is asked to state the basis of its inventory, that is, for the year ending March 31, 1918, Mr. Bruce reports that cloth and process stock have been taken at cost less 15%. Now, having in mind --

THE COMMISSIONER: Mr. Bruce reports what?

MR. BRUNEAU: That cloth and process stock are taken at cost less 15%. Now, having in mind --

THE COMMISSIONER: Reports that to whom?

MR. BRUNEAU: On the return under the Business Profits War Tax Act.

MR. McRUER: Are you referring to an exhibit now?

MR. BRUNEAU: Yes.

MR. McRUER: Let us have the exhibit.

MR. BRUNEAU: March 31, 1918 return, exhibit 1062.

MR. McRUER: I don't know how you draw your conclusion.

MR. BRUNEAU: The conclusion is not difficult to draw. We have taken an extra discount of 15%--

THE COMMISSIONER: This exhibit is the departmental return?

MR. BRUNEAU: I think it was labelled 1062. It says it is taken at cost less 15%. Now, having

in mind that in previous years it allowed a deduction of as high as 26.89 for the purpose of bringing down the inventory to its proper value on the books of the company, that the inventory for the previous year was taken at a discount of 25%, and that that represented an estimate of what might be considered the cost of the goods, when that estimate was made, 40%, it was a fair thing for Mr. Bruce to refer to it as 15% off cost. The Government was in no way interested --

THE COMMISSIONER: Are you referring now to raw materials?

MR. BRUNEAU: No, to the finished goods. That increase of the discount off the listed price from 25 to 40% was referred to in the returns as a deduction from cost of 15%, and if you have been carrying your goods at a discount of 25%--

MR. CAMPBELL: Off list.

MR. BRUNEAU: Off list in previous years and you take another 15% that is taking 15% off cost.

MR. McRUER: Oh no.

THE COMMISSIONER: That means the selling list.

MR. McRUER: I do not see how you can say that. That 25% was never shown to be their cost.

MR. BRUNEAU: It was an estimated cost. No one could have estimated that cost at the time in any other manner, and we made the best estimate possible and then the next year, in 1918, we reported to the Government that we were carrying our goods at less than cost by 15%.

THE COMMISSIONER: Pardon me a moment; that exhibit 1062 is the company's Business Profits and Income Tax returns; that is the whole parcel, I suppose?

MR. BRUNEAU: Yes.

MR. McRUER: What this says is "cloth and process taken at cost less 15%"-

THE COMMISSIONER: Is this the exhibit you are speaking from?

MR. McRUER: Yes, my lord, 1062; "cloth and process taken at cost less 15%; raw cotton and supplies at cost".--

THE COMMISSIONER: At cost.

MR. McRUER: "At end of period taken on same basis". Now, there is no suggestion in that that it is any estimated cost.

THE COMMISSIONER: Perhaps you had better let Mr. Bruneau speak from that.

MR. BRUNEAU: Cloth and process stock taken at cost less 15%. That is what I am saying. To say 15% off cost is exactly equivalent to saying 40% off listed price if 25% has been the deduction you have been taking to bring the listed selling price down to cost. Then, surely, if you take 15% more that is cost less 15%.

THE COMMISSIONER: That is not exactly what it says. You first take 40% off one figure and 15% off the second figure --

MR. BRUNEAU: Oh no, we take 40%.

THE COMMISSIONER: You take 40% off the selling

price, bring it do n to 60 from 100, we will say, and then you take 15 --

MR. BRUNEAU: No, we just take 40% off the listed selling price so as we have taken 25 the year before I think Mr. Bruce was justified. I would not be much concerned about his statement that cloth and process were taken at cost less 15%.

MR. McRUER: Whether 25% off list was cost or not.

THE COMMISSIONER: Just a minute while you have that exhibit before you; what do you say there about raw cotton?

MR. BRUNEAU: Raw cotton and supplies at cost, and they were continued again at the same amount.

THE COMMISSIONER: The same amount?

MR. BRUNEAU: The same amount.

THE COMMISSIONER: As in 1915 and 1916?

MR. BRUNEAU: Exactly, my lord; you will see the inventories there; each mill reports the same price.

THE COMMISSIONER: What does Mr. Bruce say ~~at~~ the cost should have been?

MR. McRUER: Mr. Brown.

THE COMMISSIONER: Mr. Brown.

MR. McRUER: This year -- this is 1917 you are dealing with? 16--

MR. BRUNEAU: 1918.

MR. McRUER: 28.5 cents is Mr. Brown's valuation as against --

THE COMMISSIONER: What is your figure?

MR. McRUER: 7.9 cents. Mr. Bruneau says it is

taken at the same as it was before. It was 9.25 before.

MR. BRUNEAU: But the average of the mills, the averages may be changed by reason of the different amounts in different mills, but each mill, each separate mill carries it at the same price right through. That might make on the total some adjustment, a slight adjustment.

MR. McRUER: But it would only be slight.

MR. BRUNEAU: It would not be much.

MR. McRUER: It would not be more than eight cents as against Mr. Brown's valuation of 25.5 cents.

MR. BRUNEAU: It would be very slight, but there is one thing, there is a change there made because Mr. Brown overlooked the fact that in 1918 and 1920 a substantial amount of the cotton was carried at the market figures for the year.

MR. McRUER: I don't know about that.

MR. BRUNEAU: That has been changed to read 16.92 for 1918.

MR. McRUER: When was it changed? We have never had Mr. Brown change it. I do not understand that.

MR. BRUNEAU: Mr. Shepard and Mr. Brown agreed that was the price in the year.

MR. McRUER: Mr. Brown very definitely gave us this table he put in. Now, he has never come back to change that table in any sense and never asked the opportunity of changing it.

MR. BRUNEAU: Well, if you think --

MR. McRUER: As long as we are alright; I don't want you suggesting my table is wrong when I have quoted

your own auditor's statement.

MR. BRUNEAU: Our auditor was merely acting as a witness for the Government in that respect.

MR. McRUER: He was put forward by Mr. Dawson as the man I should call to tell me accurately.

MR. BRUNEAU: He said he knew more about it.

MR. McRUER: You cannot criticize me for using his figures as long as they have not been changed.

THE COMMISSIONER: Mr. Brown is an official of the company, is he not?

MR. BRUNEAU: No. Mr. Brown was -- our auditor, my lord, was taken sick in February of 1936. He was confined to his house for about ten months and died in the course of the year.

THE COMMISSIONER: Didn't Mr. Brown take his place?

MR. BRUNEAU: Mr. Baker's partner was Mr. Birney of the firm of Baker, Birney and Company of Montreal, and it was impossible for him to occupy himself with all Mr. Baker's business in his absence and when this very large piece of work came along it was impossible for him to tackle it and Mr. Birney retained an outside accountant, Mr. Brown and instructed him to do this work.

THE COMMISSIONER: For you?

MR. BRUNEAU: Yes. He was called in simply because our auditor --

THE COMMISSIONER: Called in and paid by you.

MR. BRUNEAU: He was retained by Mr. Baker's firm.

THE COMMISSIONER: You paid Mr. Baker's firm; that is right, isn't it?

MR. BRUNEAU: Yes.

MR. McRUER: You do not suggest I am not absolutely accurate when Mr. Dawson stated that Mr. Brown was the man I should question in regard to this, and when he was put forward. He was called by Mr. Kellock. Mr. Brown was put in the box and examined by Mr. Kellock. That is my recollection, that I had examined Mr. Dawson and Mr. Dawson said--

MR. BRUNEAU: I have got Mr. Brown's evidence on that point here.

MR. McRUER: It is Mr. Dawson's evidence I want.

THE COMMISSIONER: After Mr. Kellock put him in the box he was, of course, his witness, and I think that is right.

MR. BRUNEAU: Charles B. Brown, recalled, examined by Mr. McRuer on this point.

MR. McRUER: No, no, he gave evidence in Montreal. The first evidence on this inventory reserve was given by Mr. Dawson. I examined him and he said you should call Mr. Brown and then Mr. Brown was called and my recollection is he was put in by Mr. Kellock, but I may be wrong on that. I may have called him at Dr. Dawson's request.

MR. BRUNEAU: It is not a very serious point.

MR. McRUER: It is serious if you suggest that I am putting in a table in my brief that is not accurate when I use the table that is sworn to by this man that is put forward as the one who can tell

me.

MR. BRUNEAU: There have been changes. Changes have been necessary. Corrections have had to be made.

MR. McRUER: It has never been corrected on our record.

MR. CAMPBELL: It is corrected by some documents you yousself cite, isn't it?

MR. McRUER: No; if I cannot rely on people that are put forward for that purpose --

MR. BRUNEAU: In 1919 we find the company desired to set up a special reserve of $230,000 to anticipate the expected post-War drop in the price of cotton. They were advancing this claim about a year later, in June of 1920 when they were filing their return. The department allowed $67,250 for this purpose. Then, in the year 1920 the statement was filed on the 24th of June 1921, and by this time the expected slump from the War prices had taken place and the company had suffered very serious losses as a result. The company therefore submitted in its 1920 statement that it was entitled to revise its figures in its inventory so as to make them agree with what should have been the real values in the light of subsequent experience, an in so doing it made a full disclosure to the department of its practice at the time. I don't think it was a new disclosure, but it certainly is in writing and is complete evidence of the Government being made aware of the company's practice.

THE COMMISSIONER: Now, what particular time was this?

MR. BRUNEAU: In 1920; it is the 24th of June, 1921, when the statement was filed.

MR. CAMPBELL: Covers the year ending March 31, 1920.

THE COMMISSIONER: You say it makes complete disclosure of the company's practice?

MR. BRUNEAU: Yes.

MR. CAMPBELL: In the matter of discounts.

MR. BRUNEAU: There is a full statement there of the discounts and they claimed more.

THE COMMISSIONER: Just what do you mean by discounts.

MR. BRUNEAU: The statement for 1920, the statement produced for 1920.

THE COMMISSIONER: That is the statement returned in 1921.

MR. BRUNEAU: Turned in in 1921, in which the company claimed the discount taken off was not enough to meet the slump which was taking place. It says that the inventories are taken at cost less depreciation deducted as per attached statement to bring amount to market value current within twelve months of date of inventory.

THE COMMISSIONER: Cost less depreciation?

MR. BRUNEAU: Cost less depreciation deducted as per attached statement. Then, there is the attached statement.

THE COMMISSIONER: Still whoever is looking at it is told it is cost less depreciation, and that applies to everything, does it, manufactured goods,

goods in process and raw materials?

MR. BRUNEAU: Yes; to bring amount to market value current within twelve months of date of inventory.

THE COMMISSIONER: Cost less depreciation to bring amount --

MR. BRUNEAU: As per attached statement.

THE COMMISSIONER: To bring amount?

MR. BRUNEAU: To bring amount to market value current within twelve months of date of inventory.

THE COMMISSIONER: It seems to be mixing up two things. However --

MR. BRUNEAU: It was in connection with that statement, my lord, that the letter printed in full at page 376 of Mr. McRuer's memorandum, was written by the secretary of the company to the Commissioner of Taxation on the 17th of December, 1921. It is included in exhibit 895 and quoted at length.

MR. McRUER: Will you let me have that statement you were just quoting from? Have you got the whole return there?

MR. BRUNEAU: Mr. Elliott sent you a copy.

MR. McRUER: Have you got the whole return?

MR. CAMPBELL: That is the copy that is furnished us. It must be in the exhibit. You took our returns.

MR. McRUER: No.

MR. BRUNEAU: I thought the government filed returns

MR. McRUER: No.

MR. CAMPBELL: You must have this.

THE COMMISSIONER: That is the letter where you

talk about raw cotton. That is what you mean?

MR. BRUNEAU: Yes, my lord.

THE COMMISSIONER: "5,823,000 pounds carried from previous year at approximately nine cents per pound and shown in inventory at that figure was reduced in value on account of slump to six cents a pound."

MR. BRUNEAU: Yes.

MR. McRUER: Where is the profit and loss account that is referred to in this certificate, "cost less depreciation deducted as per attached statement to bring amount to market value current within twelve months of date of inventory"?

MR. BRUNEAU: The statement is on the next page.

MR. McRUER: It says "cost less depreciation as deducted".

MR. BRUNEAU: There is depreciation deducted.

MR. McRUER: What is the depreciation deducted?

MR. BRUNEAU: Inventory over valuation, raw cotton three cents on some, 30 cents on others.

MR. McRUER: Yes, but this is a different thing.

THE COMMISSIONER: Just a moment now; you say this was notice to those concerned of the actual figure you were valuing your raw cotton at?

MR. CAMPBELL: And the practice of making discounts.

THE COMMISSIONER: That you had been carrying it at nine and now you were reducing it to six?

MR. BRUNEAU: Yes.

THE COMMISSIONER: I find Mr. Elliott had something to say about that at page 13175. I don't know what.

I have a note here he said something about that.

MR. BRUNEAU: I don't think the significance of that letter had been grasped by any of us on that morning. Mr. Elliott, as I recollect, said "you can draw your own conclusions, I don't wish to draw any".

MR. McRUER: 13757

THE COMMISSIONER: 13175.

MR. CAMPBELL: It is all one exhibit number.

MR. BRUNEAU: We started marking them and then they were left with me. They were never produced.

MR. CAMPBELL: You must have copies in your record of these returns.

MR. BRUNEAU: You said you were going to get them from the government.

THE COMMISSIONER: Mr. Bruneau, we will take a few minutes now.

MR. BRUNEAU: Yes.

-- The Commission adjourned for a short recess.

-- On resuming after recess:

MR. McRUER: I want no mistake of the capacity in which Mr. Brown came before the Commission and gave evidence. At page 11350 I was examining Dr. Dawson and I had asked him about a Inventory Reserve of $2,277,208.81. That was my first question, and my next question was:

"Q. Just to begin with, that is correct? A. It may have been correct at that time, but I wanted to explain that our auditor, Mr. Mr. Brown who made up these reports - unfortunately our auditor for years, Mr. S.C.Baker, was taken ill last spring and was ill during all summer and unfortunately died a few weeks ago, and so he called in Mr. Brown of Ritchie, Brown & Co. and handed, with the inquiry questionnaire that was given, handed him the books and the questionnaire and asked him to answer same. He has been working on the books ever since June, I think, and I asked him when the call came to me this morning to come down and appear. I thought possibly he might be able to give you information, that I could not possibly give because he has been in touch with this."

And then again at page 11353 Mr. Dawson is asked:

"Q. In that year the profit - here is the language that is used. 'Profits from operations after providing for bad debts and depreciation, $700,000, but before bond interest and government

taxes $150,287.59'. That is stated to be the profit for that year after making those provisions. You transferred to the inventory reserve that year $400,000, which shows a profit in the year ending March 31st, 1935 of $550,000. instead of $150,000.; that is correct, is it not?

A. Mr. McRuer, Mr. Brown is here now and he has been through the books and perhaps he could answer that question better than I could."

And the next answer to the next question he ends up with "But Mr. Brown is here and he will answer you." And so on. Then in the afternoon session Mr. Kellock states to the Commission:

"My lord, I was going to ask if I might call Mr. Brown instead of Mr. Dawson to answer certain questions arising out of Dr. Dawson's examination. The witness is more familiar with it."

This was instead of cross-examining Dr. Dawson.

"THE COMMISSIONER: Do you intend to call Dr. Dawson?

MR. KELLOCK: No, Mr. Brown is much more familiar with the matter than Dr. Dawson.

THE COMMISSIONER: Is it agreeable to you, Mr. McRuer, that Mr. Kellock call Mr. Brown now?

MR. McRUER: Oh yes, I don't mind.

THE COMMISSIONER: Then, you are not examining Dr. Dawson?

MR. KELLOCK: No, my lord."

And then Mr. Kellock calls Mr. Brown and proceeds to examine him on the matters affecting the inventory

reserve.

ARGUMENT BY G.A. CAMPBELL, K.C.

MR. CAMPBELL: My lord, with Mr. McRuer's permission and consent I am asking your lordship if you would allow me to interrupt Mr. Bruneau's argument at this point because I am unfortunately obliged to take an afternoon train back to Montreal.

My lord, I have no intention to deal at all with any of the general aspects of this Inquiry concerning the Textile Industry or to discuss the question of sufficient tariff protection or any obligation which may result therefrom. I propose, with your lordship's permission, only to deal with questions peculiar to Canadian Cottons, Limited and only a very few of those questions as far as I am concerned. But before discussing these in detail I would ask your lordship's permission to call to your attention the position that you occupy in this Inquiry because I propose to ask you to draw certain inferences from that position. You were appointed to conduct this inquiry under this order in Council, P.C. 223, which I assume has an exhibit number.

MR. McRUER: Exhibit No. 1.

MR. CAMPBELL: Exhibit No. 1, and I have no doubt your lordship is familiar with it and I do not propose to take time to quote it all but may I read the latter part of it, the last two or three paragraphs,

after a preamble explaining why the appointment of a Royal Commission was considered advisable:

"The Minister further observes that in order to determine the responsibility of employers and to enable appropriate action to be taken, not only with regard to safeguarding the interests of employees and of the public, but also of the industry itself, it is essential for the Government to be fully advised with respect to all matters surrounding the operations and conduct of the industries immediately concerned and inter-related and allied industries;

That in this connection it is essential that full and complete information be available to the Government covering a period of years with respect to costs, profits, wages, salaries and bonuses, tariff protection, investment, volume of production, and all other matters and things which together with information already available to the Government will enable sound conclusions to be reached regarding the position of this and other branches of the Textile industry in relation to British and foreign competition, and in particular, the extent to which the employer can reasonably and properly be expected to maintain employment over periods of temporary difficulty."

That is the mandate which I submit, my lord, the Government entrusts to you. And I continue reading:

" The Minister recommends that for the purpose of making the said inquiry and examination,

including the causes of the existing or any other such sudden cessation of industrial operations as may be referred to him, the Honourable W.F.A.Turgeon, of the Court of Appeal of Saskatchewan, be constituted a Royal Commissioner, under Part 1 of the Inquiries Act, Chapter 99 of the Revised Statutes of Canada, 1927, for the purpose of making such inquiry and examination, and that such Commissioner have the special authority specified under part 3 of the said Act."

Now, my lord, that is the scope of the inquiry and I submit that is the mandate that is entrusted to you. Now, the special authority that is referred to there under part 3, has reference to the power of appointing accountants, engineers, technical advisers, experts, etc. Under this Inquiries Act, my lord, referred to in the Order in Council the Governor in Council is empowered or perhaps I had better read the Section. I am referring now to Revised Statutes of Canada, Chapter 99, Section 2:

"The Governor in Council may, whenever he deems it expedient, cause inquiry to be made into and concerning any matter connected with the good government of Canada or the conduct of any part of the public business thereof."

Now, Section 3of the Act says:

"In case such inquiry is not regulated by any special law, the Governor in Council may, by a commission in the case appoint persons

as commissioners by whom the inquiry shall be conducted."

I might possibly, my lord, under other circumstances, raise a question which, as far as I am aware of, has not been adjudicated upon as to whether one man is ---

THE COMMISSIONER: That has been adjudicated upon.

MR. CAMPBELL: In any event, I was not proposing to raise it. It would appear from the context as if they contemplated a commission of various persons but, in any event, I am not proposing to discuss that.

Section 4 of the Act says that the Commissioners shall have power of summonsing before them any witnesses and requiring them to give evidence on oath or on solemn affirmation if they are persons entitled to affimm in civil matters or orally or in writing to the full investigation of the matters into which they are appointed to examine.

Section 5 the Commissioners shall have the same power to enforce the attendance of witnesses and compel them to give evidence as is vested in any court of record in civil cases.

Then the Order in Council vests you with the powers of part 3 of the Act which, as I say, refers to the appointment of experts and assistants, etc.

Now, my submission is, my lord, that under this Act the Commissioner is acting as a fact finding body purely and simply. The fact that in this particular instance your lordship has high judicial qualifications

and large judicial experience is, I submit, a mere coincidence. The Government might in this instance have appointed a layman, an accountant, college professor, economist to conduct this inquiry. As a matter of fact I spent a considerable portion of last summer in the Coal Inquiry which was conducted under this statute and that, as your lordship knows, was presided over by Dr. Tory who had no pretentions whatsoever to judicial experience or training. From this I infer, my lord, that you are acting in the matter not as a distinguished member of the Judiciary but as a layman appointed to conduct a certain inquiry. From that, I ask your lordship to infer that you are not called upon or perhaps even expected to give expression to legal opinions or to pronounce yourself upon questions of law. Under the Statute and under the Order in Council you are directed to make a report - that is the word that is used.

THE COMMISSIONER: What do you mean by "Pronouncing upon questions of law?" If Mr. McRuer says that I must interpret a part of this order in council as meaning one thing and you say it means another thing- who is to decide how I am to interpret it?

MR. CAMPBELL: What I mean, questions of law which arose in the course of the inquiry. I am not challenging your lordship's authority to conduct the inquiry. The inference I am asking you ---

THE COMMISSIONER: For instance, if Counsel before Dr. Tory had raised questions of law arising out of

the Commission he would have to decide them the best he could and go on.

MR. CAMPBELL: As a matter of fact he did not take that responsibility.

THE COMMISSIONER: Did he stop when any person raised a question ---

MR. CAMPBELL: No, my lord, what hedone was - there were very many objections to the admissibility of certain evidence on the ground ---

THE COMMISSIONER: He would have to decide them.

MR. CAMPBELL: He never ruled on any of those things. Everything went in ~~ujer~~ under reserve of objections.

THE COMMISSIONER: He did rule, he let it in.

MR. CAMPBELL: He did not purport to affirm any particular ruling. The objection was noted.

THE COMMISSIONER: You say the evidence went in and he acted upon it in making his report.

MR. CAMPBELL: In some cases, yes.

THE COMMISSIONER: For instance, any justice of the Peace - who is not a lawyer, - has to sit every day and hear cases and points of law arise before him as to the admissibility of evidence and the construction of the Statute and in the end he has to decide. Every person must act in a judicial capacity in deciding points that counsel raise before him. In other words, what is the use of counsel? You may say lawyers should not be here either because the whole thing is a lay proceeding. It is precisely on account of the

legal aspects of the whole case that counsel are considered a necessary adjunct to the Commission.

MR. CAMPBELL: The inference I am asking you to draw is that you should not have regard to your personal judicial qualifications because that is, as I say, a mere coincidence - that you are really sitting as a commissioner, that is, as a layman, not as a judge.

THE COMMISSIONER: That is quite true.

MR. CAMPBELL: And what I would like to respectfully suggest that you should refrain from giving anything in the nature of a judgment which may injuriously affect our clients on other proceedings which are pending before another court.

THE COMMISSIONER: That is quite right.

MR. CAMPBELL: That is really what I am leading up to, my lord.

THE COMMISSIONER: I have no power to order the entry of judgments against anybody.

MR. CAMPBELL: I would like to ask your lordship to go a little further. If I might suggest, we do not want expressions of opinions which might indicate your lordship's opinion on a matter of law which is a matter of controversy and discussion before another court.

THE COMMISSIONER: I do not think you need worry a bit about that.

MR. CAMPBELL: The reason I am raising this question in in connection with this matter of income

tax returns. My submission is that had it been intended that your lordship should enquire into income tax returns as such - and I am only dealing with returns as such under the Income Tax Act and under the Business profits War Tax Act - my submission is that had it been intended that you should deal with the matter as such that the Order in Council would certainly have intimated to that effect because this Commission, as a Supreme Court itself had said should not grasp at judicial jurisdiction. I hope your lordship won't think that phrase is offensive because it is quoted verbatim in a decision of the Supreme Court in the case of Langevin vs. School Commissioners of Municipality of St. Mark, reported in 18, Canada Supreme Court Reports at p. 605, where Mr. Justice Taschereau said - discussing there the question of the jurisdiction of the Supreme Court:

> " We should, in my opinion, be careful not to assume jurisdiction where the Statute does not clearly give it. I am against grasping at jurisdiction. We have gone too far already in that direction."

That is, as a matter of fact, where we got that phrase from which is made use of in our Factum.

Now, my submission, therefore, is that whether Canadian Cottons Limited has sufficiently complied with the provisions of the Business profits War Tax Act or the Income War Tax Act by the returns which they filed from the years 1917 on, is a question of

law and a difficult question of law. We should not, I submit, be found liable by this Commission in any respect concerning those returns as returns until we have been found liable, if ever, by the Court which is specially appointed by Statute for considering all matters arising under those two acts. First of all, my submission is that as far as issues concerning our income tax as such are concerned the issues have not been properly joined before your lordship. The matter only arose incidentally. We simply drifted into the discussion of those returns as such. There was no proper issue joined nor was the Company put on notice that the sufficiency of those returns was to be challenged and I submit it is not really a proper subject for adjudication upon these proceedings. In any event, your lordship has called the attention of the Income Tax Department to the questions that did arise before you and as a result certain serious and substantial claims have been made against Canadian Cottons Limited by the Commissioner of Income Tax. These claims are contested and an appeal is now pending in respect of them.

THE COMMISSIONER: An appeal, you say?

MR. CAMPBELL: An appeal, my lord.

THE COMMISSIONER: I want to make sure I understand you. What stage are you at when you talk of an appeal.

MR. CAMPBELL: Well, we have been assessed and we have given them notice of appeal under the Act.

So that my submission to your lordship is that this Commission and my friend, Mr. McRuer, have done your full duty by calling the attention of the Income Tax Department to the facts that have come before you. As a result of that they have made certain investigations and they have put forward certain claims. Now, under section 20 of the Business Profits War Tax Act, 1916 - it is 6 - 7 George V, Chap. 11, it is provided that:

"Except as hereinafter expressly provided, the Exchequer Court shall have exclusive jurisdiction to hear and determine all questions that may arise in connection with any proceedings taken under this Act, and may award costs in connection therewith."

There is a similar provision under Section 66of the Income War Tax Act.

THE COMMISSIONER: Well, if you anticipate my possible trespassing on the jurisdiction of the Exchequer Court you may as well stop now.

MR. CAMPBELL: Thank you, my lord. I just wanted to be sure nothing is going to happen here that is going to prejudice us in our defence of our proceedings. In other words, I want to start from scratch with my learned friend Mr. McRuer in that other---

THE COMMISSIONER: Well, I do not think you need worry.

MR. McRUER: I have not so far suggested to his lordship that any finding should be made against your clients on the subject.

THE COMMISSIONER: Does not the very fact that when this question did arise, as you say incidentally unexpectedly, I immediately referred the whole thing to the proper taxing authorities. Does not that indicate my attitude?

MR. CAMPBELL: Yes, my lord. I am not criticising the propriety of that at all, please do not misunderstand. We do not want anything to enter into this discussion that is going to put us at a disadvantage in discussing these things before the courts.

THE COMMISSIONER: As a matter of fact, I might say that I thought that the discussion before me on this question was ended. I did not know it was to be renewed.

MR. CAMPBELL: I was left in uncertainty ---

THE COMMISSIONER: Because Mr. Bruneau discussed all this with me before, discussed whether I should take any notice at all of the position of your company in respect to this taxation and I decided that and I did certain things. I thought the matter so far as evidence or discussion was concerned was over.

MR. CAMPBELL: Mr. McRuer makes reference to it in his Brief and dwells on it at some length.

THE COMMISSIONER: I am not stopping you now. You can go on.

MR. CAMPBELL: I am not going to press that. I just wanted to anticipate the possibility of anything being said which would put us at a disadvantage.

THE COMMISSIONER: You mean to say in my report?

MR. CAMBBELL: Yes.

THE COMMISSIONER: As I said, I do not think you need worry at all.

MR. CAMPBELL: That was all really the purpose I had in bringing this matter here to your lordship's attention.

Now, although that is my primary preoccupation here, I wanted to refer to some of these returns.

THE COMMISSIONER: Well, we will have it after lunch.

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-- The Commission adjourned at 12.30 P.M. to resume at 2.30 P.M.

-- On resuming at 2.30 p.m.

Mr. CAMPBELL: My Lord, at the adjournment I had reached the point where I was inviting your lordship not to deal with our income tax returns as such, and I am reassured by what your lordship said, and that will enable me to materially shorten my contribution to this discussion.

THE COMMISSIONER: Of course there must be no misunderstanding. Even if there were no income tax in existence it would still be my duty under this commission to inquire into your profits.

MR. CAMPBELL: I do not challenge that at all.

THE COMMISSIONER: Your profits, meaning your real profits, not only those you show.

MR. CAMPBELL: Quite.

THE COMMISSIONER: And I need not repeat to you at this stage of the inquiry the reasons for that. The government, the consuming public and others are interested and entitled to know what your real profits are.

MR. CAMPBELL: I agree. I am not challenging that.

THE COMMISSIONER: And also this. Your so-called income tax is really a profits tax, something which you in the course of your business charge to the consumer, who pays it.

MR. CAMPBELL: But he cannot have any interest in paying more than we have paid.

THE COMMISSIONER: No, but he is entitled to know whether you are doing your duty by the government.

Now if in the course of the inquiry, anything I find in looking into your profits leads to a suspicion, or more than a suspicion, that perhaps the treasury of the country is not getting what it ought to get from your company, it was my duty to do what I did.

MR. CAMPBELL: I am not challenging that, my lord.

THE COMMISSIONER: So when you speak about "no prejudice" I will have to make up my own mind as to what your real profits are. Some other tribunal may have to go into something in order to determine what income tax you ought to pay or ought to have paid, but whatever my opinion may be about your real profits, though it may become known to that tribunal, that would be none of my business or my concern, and more than that, would have no binding effect on that tribunal, whatever. The Judge of the Exchequer Court -- if it goesthere, and that is what you were anticipating this morning -- would have to make his own finding on what evidence he has before him.

MR. CAMPBELL: Quite so, my lord. The only distinction I am asking your lordship to draw is our returns as such under the act and our profits as your lordship may find them. We are not challenging your right to find our profits, but in view of the fact we have this controversy, which is to go on before the Exchequer Court, we do not want to be found in default in respect of the returns as made before that controversy is begun.

THE COMMISSIONER: I think you will find that

the proper distinction will be made in anything I shall find.

MR. CAMPBELL: I am quite sure it will. That is the point I wanted to make. We are not challenging the right of this commission to find our profits at all, but we are inviting them not to pass on the question whether we made returns under the processing tax and paid the taxes payable. That is a matter which is referred to another jurisdiction. That is my contention. If our tax returns are found to be wrong they will be found wrong there, and if not they will be supported.

THE COMMISSIONER: That will be found to be the attitude I took in referring the matter to the department.

MR. CAMPBELL: And that is why I suggested your lordship had done his full duty in that matter, and my learned friend Mr. Mc Ruer has done his full duty, because it has been referred to the appropriate authorities and is now under discussion. As your lordship has pointed out, that does not relieve us of the necessity of considering before you this question of profits as distinct from profits that we may have returned under either the Business Profits War Tax Act or the Income War Tax Act. As I understand it, the controversy has narrowed itself almost exclusively to one item in our bookkeeping system, the item of inventories, of which I simply wish to say very little and in a very cursory manner.

THE COMMISSIONER: I am not so sure about

your particular company, but a concealment of real profits not only through deflated inventory but through amounts taken out of operations improperly for such things as repairs.

MR. CAMPBELL: As far as I know that charge is not laid before us. The charges in which we are concerned, I understand, do arise altogether out of the question of the way in which we kept our inventories. May I say this about our system -- I am only dealing with the system as such -- that first it antedated the fiscal legislation. I do notmean to say there have been no changes in degree, but a system of calculating our inventories and what we call list selling price less an arbitrary percentage which we fixed --

THE COMMISSIONER: Of manufactured goods?

MR. CAMPBELL: I am speaking now of manufactured goods -- antedated all fiscal legislation; at least we had the records back to 1910, and we know that from that time on Canadian Cottons Limited was accustomed to take the inventory, rightly or wrongly, to assess this inventory for balance sheet purposes, on the basis of list selling price less an arbitrary percentage which in the judgment of the official that made it was enough -- the percentage was supposed to be enough, in his mind, to reduce this list selling price to approximate cost. Whether it was an accurate calculation of it or not was a matter with which at that time nobody else was concerned. It was a mere matter of internal bookkeeping and the company kept its records on that basis.

THE COMMISSIONER: Well, of course you mean to say that at that time there was no taxing authority?

MR. CAMPBELL: There was no fiscal legislation.

THE COMMISSIONER: No taxing authorities?

MR. CAMPBELL: No taxing authorities, and therefore no fiscal legislation. Therefore at that time it only became important as between ourselves and our shareholders.

THE COMMISSIONER: More than that. The government of that day, which was granting you a protective tariff, was even then entitled to know what your real profits were.

MR. CAMPBELL: Well, I have a submission to make on that.

THE COMMISSIONER: What I think you are undertaking to show now is that you did not change your system in order to meet that business profits tax or the income war tax.

MR. CAMPBELL: I am going a little further than that in a moment, but the fact is that our system antedated all the fiscal legislation.

MR. McRUER: In a measure.

MR. CAMPBELL: In a measure, yes. I do not mean to say we had not altered the percentages. And we kept our inventories on what in our brief we define as a conservative basis. I hope my friend Mr. McRuer will allow me to say that, By that, we mean a sane and safe basis, a basis that from the point of view of the business man was a sound basis. Whether the percentage of discount that we took off this

list selling price to bring our books down to what we roughly estimated to be cost was good bookkeeping or not, I submit that it was at least a system which had much to commend it, and I hope to give your lordship some observations on that. The practice of the company in respect of finished or unfinished goods off loom too was to list them -- I am speaking now of their practice in respect of their inventories -- was to inventory them --

THE COMMISSIONER: What goods are you talking about?

MR. CAMPBELL: The manufactured and the unfinished goods off lomm -- everything except the raw material.

THE COMMISSIONER: Is that what you call goodz in process?

MR. CAMPBELL: Goods in process are in a different category. Goods in process are on the loom, and the unfinished goods off lomm are those that have passed that stage of manufacture.

THE COMMISSIONER: They are not completely manufactured?

MR. CAMPBELL: They are not completely manufactured. Certain things have to be done to them. They have to be finished. They are unfinished goods.

THE COMMISSIONER: Are you dividing the categories into four?

MR. CAMPBELL: No.

THE COMMISSIONER: There are still three?

MR. CAMPBELL: Ithink there are still three. Manufactured goods and goods off the loom, they are in the same general category.

THE COMMISSIONER: Then youcome to the goods in process.

MR. CAMPBELL: Then youcome to the goods in process.

THE COMMISSIONER: And then raw material?

MR. CAMPBELL: And then raw material, yes.

MR. McRUER: In Mr. Brown's classification they are classified as raw cotton, goods in process, and finished goods.

THE COMMISSIONER: Yes. I have only known of three so far.

MR. CAMPBELL: The finished goods would include what I call finished goods off the loom.

THE COMMISSIONER: Then the class of finished goods should be divided into two -- those that are completely finished and those that remain to be finished but have come off the loom.

MR. CAMPBELL: Yes. The percentages that the company was accustomed to take in the early years say in 1910, what Mr. Bruneau mentioned this morning, and totalled 18.75 I think, that was the 10 - 5 - 5.

MR. McRUER: That is the manufactured goods?

MR. CAMPBELL: That is the manufactured goods. That is all I am speaking of at the moment. And in 1913 to 1915 this percentage had risen to 20 per cent. I am speaking always of that category. And in 1916 to 25 per cent. The particular percentage, my lord, is, in my submission, unimportant.

What is important to bear in mind was that they had a system under which they made, for the purposes of their own record, an arbitrary discount off the list selling price for the purpose of entering their inventories on their company records at the end of their business year. That was a system of long standing, and, I submit, is a system tending to sound business.

THE COMMISSIONER: Yes. I cannot quite agree it is of no importance. It is of importance to me right now.

MR. CAMPBELL: It may be relavent to the question of determining our real profits.

THE COMMISSIONER: And it will be of importance to your shareholders.

MR. CAMPBELL: Well, our shareholders so far have never seen fit to complain.

THE COMMISSIONER: Well, they don't know, maybe. That is to say, directors cannot sit down and just do things to suit themselves, as a sort of conspiracy. A company belongs to the shareholders.

MR. CAMPBELL: That is true, my lord.

THE COMMISSIONER: And the shareholders should be told the real truth. If their profits are of a certain total, they should know that.

MR. CAMPBELL: Yes, if there are profits, but I am coming to whether or not it is --

THE COMMISSIONER: It is not lawful for the directors to conceal the real profits of a company even from its shareholders. I know some of them think, "Oh well, it is better for the shareholders not

to know." I have read that before, in the course of another commission. The defence was, "Oh, if we told the shareholders the truth they would want bigger dividends." Well, that is an abuse of a trusteeship. That is certainly unlawful.

MR. McRUER: That was said in this inquiry. That was one of Dr. Dawson's reasons for not disclosing it. He said it would cause speculation in the stock.

THE COMMISSIONER: Yes. Well --

MR. CAMPBELL: I understand that as a matter of fact at the annual meeting there was general discussion and adequate disclosure.

THE COMMISSIONER: For those who went to the meeting and who knew enough of the conduct of the company's business to make the necessary inquiries. But so far as the thousands of shareholders at large are concerned, I do not see how they would ever find things out. However --

MR. CAMPBELL: That is a matter, I suggest, between the company and its shareholders, and it is for the shareholders, if they have grievances, to complain.

THE COMMISSIONER: Never forget it is a matter too for the government that wants to find out what its profits are, and to which you go for tariff protection sometimes on the plea that you have a hard time struggling along.

MR. CAMPBELL: That is why I say I am proceeding, notwithstanding what was said on the question of our returns, to discuss this question of inventories.

It is true that after the introduction of these taxing statutes, the first of which came into force in 1916--

MR. McRUER: By the way, the question was raised this morning as to whether the business profits tax was included in the 1915 budget which was brought down on the 15th of February. I have the information now that it was included in the 1917 budget which was brought down on April 24, 1917.

MR. CAMPBELL: That brings me to the next submission that I wish to draw to your lordship's attention. There is, I suggest, no impropriety or illegality in a taxpayer of a country reconsidering his position in regard to the matter of his book-keeping methods when legislation such as either Business Profits, War Taxes Act or Income Tax Act has been introduced. He must not, it is true, do anything that is illegal or improper, but he is entitled within the law to make sure that his system is so adjusted that he is entitled to the benefit of any exemptions which the law gives him.

THE COMMISSIONER: That is quite right. But remember that in the case of companies we are dealing with people who always were trustees and who therefore had a duty to perform of strict disclosure to the people for whom they were trustees.

MR. CAMPBELL: But surely that did not deprive them of their right to take advantage of any exemptions which the law, as drawn, authorized them to take.

THE COMMISSIONER: Oh no, only, for the

reason I have just given, it is very hard to assimilate the case of a corporation to that of an individual, because an individual is not a trustee; he is himself.

MR. CAMPBELL: But take the case of either a corporation or an individual. Take for instance, the case of depreciation of real estate. There is an arbitrary percentage which the department has been accustomed to recognize -- I do not know that there is any statutory foundation for it -- say two and a half per cent on certain categories of buildings, and five per cent on other categories -- five per cent on wooden buildings.

MR. McRUER: Those are maximums. They are not arbitrary.

MR. CAMPBELL: In other words the department permits you to take up to that level.

MR.McRUER: No, no, but they won't give you more than that.

THE COMMISSIONER: As shown by the Dominion Textile people, the department will in no case let you take more than that.

MR.CAMPBELL: And they will not let you take credit for more than youcharge up on your records.

THE COMMISSIONER: Well, that is a different point.

MR. CAMPBELL: My understanding is, and for the purpose of my point I do not think the percentages are material, they allow a certain percentage, whether it is two and a half or five per cent or any other percentage. Now supposing a company had been

accustomed previous to this fiscal legislation, to charge up, we will say, one per cent or two per cent on its real estate of different categories, when the legislation came along and they found that the regulations permitted them to take two and a half per cent, surely there was no impropriety in their increasing their percentage up to the point that the regulations permitted them.

THE COMMISSIONER: No. If there were such regulations, certainly they were completely justified.

MR. CAMPBELL: I think they were not only justified but it was their duty to their shareholders that they should take advantage of any allowances which the laww and regulations permitted them to take. On that point may I give your lordshi a reference to some observations of the House of Lords. I am not going back on my submission that you are sitting as a layman, but from the point of view of a layman this is an interesting discussion.

THE COMMISSIONER: Well, if I am sitting as a layman, a lot of very wise maxims have been thrust upon me in vain.

MR. CAMPBELL: These are some observations which even a layman would approve, at least a taxpaying layman would approve.

MR. McRUER: I am afraid it would be a serious business to impose the Customs Act and the Customs Tariff Act on a layman.

THE COMMISSIONER: If I knew I was merely a layman, I think I would simply have called for accountants and told the companies to keep their accounts at home. It would have saved a little time, of course.

MR. CAMPBELL: In the case of Inland Revenue Commissioners versus the Duke of Westminster, reported in Law Times Reports, volume 51, at page 467, the whole thing isreported in these words:

"Every person is entitled, if he can, to order his affairs so that the tax attaching under the appropriate acts is less than it otherwise would be, and if he cannot be brought within the letter of the law he is not liable. There is no doctrine in revenue cases that the court may ignore the legal position and regard what is called 'the substance of the matter', and any such supposed doctrine rests on a misunderstanding of language used in earlier cases.

Lord Tomlin, at page 472, said:

Apart however, from the question of contract with which I have dealt, it is said that in revenue cases there is a doctrine that the court may ignore the legal position and regard what is called 'the substance of the matter', and that here the substance of the matter is that the annuitant is serving the Duke for something equal to his former salary or wages and that therefore, while he is so serving, the annuity must be treated as salary or wages. This supposed doctrine (on which the commissioners apparently acted) seems to rest for its support

"some earlier cases. The sooner this misunderstanding is dispelled and the supposed doctrine given its quietus the better it will be for all concerned; for the doctrine seems to involve substituting 'the incertain and crooked cord of discretion' for the 'golden and streight metwant of the law' (4 Coke's inst. 41).

Every man is entitled, if he can, to order his affairs so as that the tax attaching under the appropriate acts is less than it otherwise would be. If he succeeds in ordering them so as to secure this result, then, however unappreciative the commissioners of inland revenue or his fellow taxpayers may be of his ingenuity, he cannot be compelled to pay an increased tax. This so-called doctrine of 'the substance' seems to me to be nothing more than an attempt to make a man pay notwithstanding that he has so ordered his affairs that the amount of tax sought from him is not legally claimable.

Lord Russell of Killowen (at page 473) said :

I confess that I view with disfavour the doctrine that in taxation cases the subject is to be taxed if, in accordance with a court's view of what it considers the substance of the transaction, the court thinks that the case falls within the contemplation or spirit of the statute. The subject is not taxable by inference or by analogy, but only by the plain words of a statute applicable to the facts and circumstances of his case. As Lord Cairns said many years ago in Partington versus Attorney-General

"(L.R. 4 L.H. 100, at page 122): 'As I understand the principle of all fiscal legislation, it is this: if the person sought to be taxed comes within the letter of the law he must be taxed, however great the hardship may appear to the judicial mind to be. On the other hand, if the Crown, seeking to recover the tax, cannot bring the subject within the letter of the law, the subject is free, however apparently within the spirit of the law the case might be otherwise appear to be'".

The case that is referred to there by Lord Russell is the case of Partington versus the Attorney General, which is decided in the House of Lords and is reported in Law Reports, 4 English and Irish, at page 100.

THE COMMISSIONER: It is referred to in the first case.

MR. CAMPBELL: Yes.

THE COMMISSIONER: Well, of course, after all our whole constitution is built up on that, that no man is obliged to pay any taxes unless there is an act of parliament imposing them, and secondly, that the act is not to be stretched. The onus is on the taxing authority to show that the money it wants to get comes within the four corners of the act. That is all, I think, by this time very trite. I have no objection to your advancing these principles. Among other things there you quote a statement that the taxpayer is justified in so arranging his affairs as to make the tax less than it would otherwise have

been. That is all right, but --

MR. CAMPBELL: Always within the law.

THE COMMISSIONER: Of course. As the House of Lords has said it no doubt it is right. But I do not really see that the question is very pertinent right now.

MR. CAMPBELL: I do not suggest, my lord, that we did so order our affairs that we evaded a tax which we would otherwise have had to pay, but I draw from these cases the principle that there is nothing derogatory or blameworthy --

THE COMMISSIONER: That is what the Court of Exchequer will have to find, according to what you told me this morning, insofar as payment of that tax is concerned.

MR. CAMPBELL: Yes.

THE COMMISSIONER: It is also what I will have to find out, not under any particular taxing measure, but under this order in council, after arriving at what your real profits are.

MR. CAMPBELL: But that brings me to a discussion in a moment of what are our profits as between ourselves and our shareholders, not as between ourselves and the taxing authority, but as between ourselves and our shareholders or between us and the public. But in so far as the item of inventory, and of course that is the controversial item inthe case of our records, is concerned my submission is that the value of the inventory is always a mere estimate and can be nothing else. I mean, the valuation ~~by~~ at which

we ca ry it on our books and on our records.

THE COMMISSIONER: Still, there is. There are the assets. The materials are all there. They must have some value.

MR. CAMPBELL: Yes, but their precise value no man living can tell. We may, if we have an adequate costing system.

THE COMMISSIONER: That is what certain tests are applied. You have your costs. You have also market values at the time of the taking of the inventory. You have different tests to work on.

MR. CAMPBELL: In any event the system that this company follows --

THE COMMISSIONER: Is your contention this, that as far as I am concerned and this inquiry is concerned the profits which you have reported from year to year are the ones which I should accept as your real profits?

MR. CAMPBELL: Well, I hope you will reach that conclusion on the submission I propose to make.

THE COMMISSIONER: That must be your contention.

MR. CAMPBELL: I am coming to the general proposition that over a period of years it is immaterial how this percentage is applied. In other words, it is as broad as it is long over a certain period of time. The more we discount our inventories the greater our profit is when we convert these discounted inventories into cash.

MR. McRUER: If you have a profit.

MR. CAMPBELL: If we have a profit.

MR. McRUER: And if your discount was constant. But here we vary from 25 to 70 per cent of a variation.

MR. CAMPBELL: And my submission is that the more we discount our inventories the greater our profit in the following year is bound to be on those goods. We must take into our accounts as profit, and we do in fact, the difference between our depreciated inventory, that is our inventory less all discounts that we may have taken, and what the goods actually are sold for and realize when disposed of. So if you have got an inventory of a million dollars and you discount it 70 or 60 or 50 per cent, if you subsequently sell that for a million dollars, the profit that you make is the difference between your discounted inventory and the cash that has comein, and that is the profit that must come into your accounts and that in fact did go into our accounts. So I cannot see --

THE COMMISSIONER: Just a minute. When you are making up your profit do you use your inventory as a starting point or do you use your costs of production?

MR. CAMPBELL: I understand the inventory is taken in at the beginning of the accounting period at the amount at which it is made up and valued. Then at the end of the accounting period the transactions, of course, come in, all the sales we make in the year necessarily enter into our account, and the purchases that we make of new material necessarily get into our account. But it seems to me a mathematical

necessity and certainty that the more you discount your inventory the greater profit goes on to that discounted inventory when you sell it for cash.

THE COMMISSIONER: Oh yes, but you do not show it.

MR. CAMPBELL: But we are bound to show it in the cash.

THE COMMISSIONER: As I have understood it so far, what youshowis the difference between the cost of produduction , which is made up of the items not posted at all on your inventories, and your selling price.

MR. CAMPBELL: With great respect, my lord, I do not think that is so. My understanding of it is, that it is the difference between the figure at which we carry the goods in our inventory and the figure for which we sell them. That is the item that must enter into our system of profit.

MR. McRUER: But the point is, when youcome down to this last year, 1936, about which we were having our investigation, that there had accumulated in this under v luation of inventories, two millions and some odd thousand dollars, as shown in page 370 of my brief, from year to year. It is shown how much accumulated, and there it is. That is not being shown, and it may be my friend might say, "It may be our pfofits are more, but we do not show them."

MR. CAMPBELL: It is not a question of profits that have not been realized.

THE COMMISSIONER: According to you it might

never be turned into actual cash.

MR. CAMPBELL: As long as we carry on our business, some goods every day are being sold, and they realize a certain price, and that price must enter into our records, and these goods so sold were part of our inventory, before the sale at a depreciated inventory value, and the difference between our depreciated inventory value and the price for which we sell is something which we must take into our accounts, and we do take it into our accounts, and it is either a profit that we show or a loss.

MR. McRUER: Well, that is the very argument that we have had on the real estate.

MR. CAMPBELL: At any rate, I ask your lordship to follow my submission that over a period of time it makes no difference to the taxing authorities or anyone else, because we must and in fact we do take into our records the difference between --

THE COMMISSIONER: -- the real value, you say?

MR. CAMPBELL: -- the depreciated inventory and the price at which we sell. If we have a million dollars of inventories and we write them all down fifty per cent --

THE COMMISSIONER: If you reduce your whole inventory, the finished article, the article off the loom and not quitefinished, the goods in process, and raw materials, and put them all down to one per cent of their value, you say it would not make any difference?

MR. CAMPBELL: I was dealing at the moment with manufactured goods. It does not make any difference over a period of time. If you isolate any period of time of course it does.

THE COMMISSIONER: But you have to, for the purposes of your taxes, and you have to now before me, because I am inquiring to-day.

MR. CAMPBELL: But if we are right that we always have taken into our accounts and do take into our accounts the difference between our depreciated inventory value and what the goods realize when sold --

THE COMMISSIONER: A moment ago I did not understand that your present remarks were applying only to your saleable goods. I thought they were applying to the whole of the four lines.

MR. CAMPBELL: I am dealing with the saleable goods, which of course is the major portion of our inventory. So I cannot see myself -- it may be my density -- except of course in the initial period possibly, that it might make a difference, how the taxing authorities are concerned, because some day they are bound to get that profit or any profit that we make on those goods.

THE COMMISSIONER: But all sorts of misfortunes could happen to your company before that happy day arrives.

MR. CAMPBELL: The reason we have been able to avoid those catastrophies --

THE COMMISSIONER: You always come back to the

taxing authorities. They are assessable and payable on the operations of each year, just the same as in the caseof the individual. He cannot hide half of his salary in his returns and say, "Oh well, I am saving it up, and some day the government is going to get a good return on it." He may find himself out of luck; he may lose his job. You must do this from year to year. That is the only way you can do it. You cannot say, "In the long period it will benefit everybody." The long period may never end, or it may end in disaster.

MR. CAMPBELL: I was putting it on the basis that from the beginning of this fiscal legislation to date no one has suffered.

THE COMMISSIONER: Well, some companies have gone out of business during that period of time.

MR. CAMPBELL: But as a general tendency --

THE COMMISSIONER: However, Mr. Campbell, there is no use for you and me to argue that point; in so far as the tax is concerned the statute is there. It is an annual affair, and you must bring forward the real profits of each year, and very wisely, because if the taxes were called for every ten years or every twenty years, heaven only knows who would ever pay them. It is no use talking of long periods. The period is twelve months.

MR. CAMPBELL: I digressed somewhat from my discussion of the item of inventory. I was submitting that that is necessarily a matter of estimate as to what is the proper figure at which you enter your inventory in your accounts.

THE COMMISSIONER: Yes, I agree with you there. But the estimate -- there is some test for the making of the estimate.

MR. CAMPBELL: A company may have one system or another. One man may carry his inventory as cost.

THE COMMISSIONER: But I mean, in so far as you had saleable goods that must be the test of their actual value, because you have the market there.

MR. CAMPBELL: But it is like the stock market. Supposing your lordship wanted to sell twenty-five shares --

THE COMMISSIONER: I am not saying you should arrive at the exact amount of cents per yard, or whatever the unit of sale is, but there are some tests.

MR. CAMPBELL: That is where we started from. We took our list selling price.

THE COMMISSIONER: You do make estimates. If there were no means of estimating you could not arrive at any amount.

MR. CAMPBELL: Yes, and we start from our list selling price, which is our hope of profit. From that we make certain percentages, whether fifty or twenty or whatever it may be. We start from an arbitrary point and make an arbitrary deduction, and we have done that practically all through the history of the company.

THE COMMISSIONER: In so far as this class of goods is concerned that you are now speaking about, the fully manufactured articles are great quantities of them carried over for long periods of time?

MR. CAMPBELL: Some, for a considerable period. As a matter of fact lately we have had to take the place of the wholesaler. The wholesaler is becoming almost an extinct species.

THE COMMISSIONER: That is another question. Do you have to carry your finished products over for a number of years before you can sell them?

MR. CAMPBELL: I am afraid we do in effect carry some goods which we do not succeed in disposing of, except I suppose they are ultimately disposed of a t a substantial loss to get rid of them.

THE COMMISSIONER: It seems to me that you would stop manufacturing after a certain time, and catch up.

MR. McRUER: I think the margin of profits on sales indicates a fairly rapid turnover.

MR. CAMPBELL: There is, I understand, an average turnover, which is about twice a year.

THE COMMISSIONER: Yes, that is what we were told, -- or three times.

(Page 18590 follows)

MR. CAMPBELL: That does not mean to say you turn over every class of goods on your shelves. That is on an average what you turn over.

THE COMMISSIONER: I think it does affect just about how far ahead you should look in fixing the estimated value for the goods you have.

MR. CAMPBELL: Of course, you always have a certain amount, for instance, that turn out unprofitable. Your lordship will find at the end of our brief --

THE COMMISSIONER: I don't think it is really of any value to tell me that insofar as these finished articles are concerned you must look forward to a long period of years. That is totally out of the question.

MR. CAMPBELL: If your lordship will look at the schedule attached to our factum --

THE COMMISSIONER: The only turn-overs I have heard of in evidence are 1½, or twice or three times over a year.

MR. CAMPBELL: That does not mean to say you do not always have some goods that turn out badly. We have listed there on page 40 of our factum a large number of categories of goods which actually turned out to be substantially losing ventures. That is given by way of illustration.

THE COMMISSIONER: Pardon me, page 40?

MR. CAMPBELL: Page 40 of our factum.

THE COMMISSIONER: What is this?

MR. CAMPBELL: This is a sample of goods on which

there was a substantial loss, estimated at $141,261.

MR. McRUER: What year was this made? This is not something taken from the evidence.

MR. BRUNEAU: That is 1936, that is since March 31, 1936.

THE COMMISSIONER: Does this show the results of one year, a loss of $141,000?

MR. CAMPBELL: It is the estimated loss on the actual prices at which the goods were offered or sold.

MR. McRUER: Have these goods been sold?

THE COMMISSIONER: During one year?

MR. CAMPBELL: During one year.

MR. McRUER: Have these goods been sold.

MR. CAMPBELL: Some have and some not.

MR. McRUER: In fixing your sale price on other things do you not fix it on the basis that some goods are going to be unsaleable and therefore a loss will have to be taken on them?

MR. CAMPBELL: Well, I am not sufficiently familiar with it.

MR. McRUER: That is the whole difficulty in dealing with a list of this sort which is put in now on which there was no evidence and no cross-examination. I think that is one of the things that Mr. Loper gave evidence about, if I recollect it, and that is that in determining the prices you took into consideration a sort of intangible thing such as losses that might be incurred by lines that were made

up that were unsold.

THE COMMISSIONER: Yes.

MR. McRUER: And certainly a percentage was estimated for that purpose.

MR. CAMPBELL: That is quite possibly one of the elements of our costing system.

THE COMMISSIONER: Tell me, looking at this page, what does your list consist of?

MR. CAMPBELL: Your lordship will see there on that page that the first column is called "yardage in inventory". The second column --

THE COMMISSIONER: Now, pardon me; that is yardage in the inventory at the end of the last fiscal year?

MR. CAMPBELL: Yes, and the next column is inventory list price per yard.

THE COMMISSIONER: According to the last year?

MR. CAMPBELL: According to the basis on which the inventory was made up the last time.

MR. McRUER: Have you got the inventory book here that shows this? Is that the price before discount is taken or after it?

MR. BRUNEAU: This price is the inventory price -- the list price before the discount is taken.

MR. McRUER: So there would be 65% taken off that in 1936.

MR. CAMPBELL: In the inventory, after the discount had been taken off, yes.

MR. McRUER: 65% off 50 cents. That would be taken into the inventory at 16⅔ cents. You sold it

at 40 cents and you claim a loss of $518.50.

MR. CAMPBELL: This is only to illustrate the necessity of an allowance.

THE COMMISSIONER: The illustration is not accurate unless I know what this 50 cents there in the first item means, as well as all the other figures.

MR. CAMPBELL. The heading, I think, will give your lordship that information.

THE COMMISSIONER: "Invertory list price per yard"; by what Mr. McRuer is interjecting, if he is right that is not your inventory price.

MR. CAMPBELL: That is the list price.

THE COMMISSIONER: Your inventory price was 40% less than that.

MR. McRUER: 65.

THE COMMISSIONER: 65.

MR. CAMPBELL: It is made up on that basis and then totalled, at the end the total. That is how the discount generally is made up. There isn't a discount taken for every individual item.

THE COMMISSIONER: Yes, but when I look at the real facts I find instead of 50 cents that should be 65% of 50 cents.

MR. McRUER: 15½ cents.

THE COMMISSIONER: Then, you sold it at 40. On what basis are you calling that a loss?

MR. CAMPBELL: I say this is a loss over what we estimated, that we hoped to get. It is a loss

on our list price.

MR. McRUER: No, no.

MR. CAMPBELL: That is the loss off our list price before discount.

THE COMMISSIONER: How can you say at the end of the year, "our real inventory is so much but we hoped to get 60% more", and then if you only get 40% more say "we have suffered a loss"?

MR. CAMPBELL: We did not suffer a loss, but we suffered a loss off our list price. These are calculations made off the list price.

THE COMMISSIONER: Why did you not make the list price your inventory price? Then we would have the true facts, but you didn't. Apparently you had two things. You had a list price and you said "no, we are going to try to sell it for more than that, or at least for that, but in the meantime we are valuing it at 65% less than that".

MR. CAMPBELL: Because we say we don't know what we are going to realize.

THE COMMISSIONER: If we don't sell it for 50 cents, if we sell it for 40 cents, instead of saying we have a profit of 25 cents you say you have a loss of 10.

MR. CAMPBELL: From our inventory, but that would not be a loss on our cash accounts.

THE COMMISSIONER: Well, that is a different thing.

MR. McRUER: If your lordship will notice

the heading on that last column of this statement, it is "estimated loss on inventory sold or unsold".

MR. CAMPBELL: The goods were offered for sale at these prices. This is an indication of the necessity of a discount. Whether this justifies the particular discount we were taking or not is a different story, but I am referring to it as showing the necessity for having a discount to take care of items of this character.

THE COMMISSIONER: According to the two columns I am running my eyes down now, "inventory list price per yard" on one side and "actual price at which goods offered or sold" on the other the discount would have been very small in percentages.

MR. CAMPBELL: It is substantial, my lord. I am looking at the totals. I haven't figured out each item.

THE COMMISSIONER: Not as much as you make out.

MR. BRUNEAU: The average is 22%.

THE COMMISSIONER: When you take this way of getting at the losses, profit or loss on your operations, is that of any use to me? Heretofore I have been told, and everybody else has told me what their costs of production are, cost of production. You have a loss if you had to sell it below cost of production.

MR. CAMPBELL: That would be our loss.

THE COMMISSIONER: You have to show that.

MR. CAMPBELL: According to my understanding of the way the records are kept, as I say, over a period of years nobody is particularly concerned, except from the point of view your lordship has pointed out that a taxing statute may require a return to be made for a particular period of time, but I am putting aside for the moment the question of taxing statutes; as far as our corporate records are concerned, as between us and our shareholders, we are bound to take into our accounts the profit that we actually realized between the depreciated value of our inventory and the actual cash received when the goods are disposed of. We cannot avoid it and we do not, in fact, avoid it.

THE COMMISSIONER: You do not avoid it? Isn't that exactly what you are trying to do here because you say you lost, not between those two extremes, but between two very different items?

MR. CAMPBELL: We haven't shown a loss at all.

THE COMMISSIONER: Your inventory list price is the one thing here and your actual selling or offering price is the other. You say the difference between those two constitutes our profit or our loss. Now, which is it?

MR. CAMPBELL: That particular exhibit, my lord, was for the purpose of demonstrating that the list price was not a reliable or invariable indication of what the goods would actually realize

in trade and of course they do not realize that in trade. It is only to point out the necessity for some specific discount, whether it be 20% or more or less.

THE COMMISSIONER: You do not sin in the way of being insubstantial because you take 65% discount.

MR. CAMPBELL: My submission is it does not make any difference whether we take 65% over a period of time. If you isolate one period, yes, but over a period of time it does not, because, as I say, we are bound to take into our accounts and we do take into our accounts the price realized, but our profit, the difference between the price realized and our depreciated inventory, that is, after all discounts, would have to be in the price actually realized when the goods are disposed of. That is the cash that comes into the till and it must show us a profit between the depreciated inventory which we had entered on our balance sheet and what comes in from these goods when received, when realized.

THE COMMISSIONER: I think to make a long story short, if I find to-day you have an asset in inventory there worth a certain amount of money -- Mr. McRuer puts it at several million dollars -- and I find that was built up out of your profits from year to year well, there it is. I must consider it as part of your profits.

MR. CAMPBELL: What we have, we have a certain amount of merchandise; that is what we have, my lord, and its value is a matter of opinion. Its

value is a matter of opinion. What it will realize, what we are going to get out of it ultimately time only will tell. Its value is necessarily its value over the interim --

THE COMMISSIONER: I cannot go into that now. When it is taken into production it is turned over once, twice or three times a year, but there it stands to-day, the whole thing. Now, valuing it to-day how much is it worth? To-day it is worth so much.

MR. CAMPBELL: You cannot value your whole inventory at an arbitrary amount. It would not realize that. If you went out in the market and dumped it in the market at that list price you would not realize that. In the ordinary course of trade in small quantities you might but you would not realize that if you go out and dump it on the market. It is like dumping on the stock market a huge block of any one share. You depreciate the market price. You might cut it in half.

THE COMMISSIONER: Supposing you were called on to-day to put a value on that inventory you would have to go according to certain rules.

MR. CAMPBELL: We would have to estimate what in our judgment would probably be realized when that inventory was completely converted.

THE COMMISSIONER: Supposing your company to-day was to sell out all its trade and business and everything else to another company those things

would have a value alright.

MR. CAMPBELL: Does your lordship think for a minute anybody would buy it at their list prices?

THE COMMISSIONER: That is another question. I was not talking of your list price. This is the first time I have seen it.

MR. CAMPBELL: That is the basis on which our inventories were made up. They were made up by taking the list selling price less these arbitrary discounts. Whether it was a good or bad system that was the system and has been the system for 25 or 30 years. That was our system of keeping inventory. I am not suggesting there may not be a better system but that was the system we had and which we thought was sufficient for the purposes of our corporate records. But my submission in principle is that the valuating of an inventory is always a matter of estimate, always a matter of estimate, and if you employ a dozen men to value each inventory of that kind I venture to say they would every one of them reach a different conclusion. They might be approximate on certain items, but no two of them, unless they conferred, would agree on it. It would be humanly impossible that they could agree.

THE COMMISSIONER: At the same time it is not a guess, is it; it is not a mere guess.

MR. CAMPBELL: No, but it is a matter of estimate, as I say. We take our list selling price--

THE COMMISSIONER: But an estimate -- I have

repeated it time and time again -- which you arrive at by applying certain tests.

MR. CAMPBELL: That is true, and in our case we applied what I would call an arbitrary percentage off our list selling price. We say that is our estimate of what we ought to enter this asset at in our balance sheet for bookkeeping purposes. That is the position this company took. Now, on that question of estimate, my lord --

THE COMMISSIONER: I have always thought so far that you had two pretty well known ways of getting at it; first, the market value of the day, or the cost --

MR. CAMPBELL: There might be a dozen other systems, my lord, equally as good. It is true that of recent years, since 1932 I think it is, the taxing departments have set that down.

THE COMMISSIONER: I am not thinking of that at all now.

MR. CAMPBELL: Even in their case it is ~~nnx~~ an arbitrary rule because there is nothing in the statute which says you shall take your inventories at cost or at market or even at less a discount.

THE COMMISSIONER: But I must arrive at some figure.

MR. CAMPBELL: I suggest if over a period of years any company has a system which is a sane, sensible system, and which does no harm to anybody, taken over a period of years it is a proper system for that company to have, unless there is something in the

statute which makes it improper or illegal for them to follow it.

THE COMMISSIONER: I am not quarreling at all with your system. I want to know what your real profits are.

MR. CAMPBELL: We say our real profits are when we convert these goods into cash and realize them. Then your lordship gets our real profits.

THE COMMISSIONER: But you always have something unconverted so you would never get the real profit.

MR. CAMPBELL: We have our real profits every year. This year we convert into cash the goods we had inventoried last year. Last year we converted into cash the goods we had inventoried the period before and so on from now back to 1910. We convert every year the goods which at the end of our previous fiscal period we had inventoried on a certain arbitrary basis.

THE COMMISSIONER: That is not the whole story.

MR. CAMPBELL: But when we convert them we convert them for a certain sum of cash, and that sum of cash must enter into our accounts, and, in fact, does so, and therefore that takes up the profit, the whole profit between our depreciated inventory and the amount realized. Insofar as the valuating of an inventory is a question of estimate --

THE COMMISSIONER: You began estimating

the profit according to this statement here, unless there is a profit not over your inventory price but over your hoped for selling price, based on your hoped for selling price.

MR. CAMPBELL: No, my lord.

THE COMMISSIONER: That is exactly what you show now. You show me this inventory list price per yard which is not the price at which you put your goods into your inventory because it is a great deal more. You put them into your inventory at 65% less than that. You show me these prices and you say we did not make that price, we made less. Therefore we have a loss.

MR. CAMPBELL: No, I show that price to show the necessity of making a substantial discount off the list selling prices before we enter out inventory into our balance sheet because otherwise we would be entering into our balance sheet an asset at a fictitious value which it would not realize, in fact. This is only to illustrate the necessity of a certain discount. Your lordship may think our discount was excessive, our rate of discount was excessive, but that is simply to demonstrate the necessity of a discount from the list selling price which was the point from which we started in the making up of our inventories.

THE COMMISSIONER: Yes, but if your discount was based on your cost of production I would have a better understanding of it, but you put that discount on something very different.

MR. CAMPBELL: That may be so.

THE COMMISSIONER: On a price which you hope to sell the goods for.

MR. CAMPBELL: Yes.

THE COMMISSIONER: That is a different thing.

MR. CAMPBELL: It is a different basis.

THE COMMISSIONER: If you aim at a profit of 30% and only make a profit of 15% you say you have made a loss of 15%.

MR. CAMPBELL: We have not actually lost, but we have a loss off our list selling price.

THE COMMISSIONER: Off your expectations.

MR. CAMPBELL: And if we entered our expectations in our balance sheet without discounting then we would realize a loss.

THE COMMISSIONER: I do not say you should. I say all that really is not going to confuse me in determining the point of what your actual profits are.

MR. CAMPBELL: I submit, my lord, the only importance of it is to establish, if I can, that this question of valuating an inventory is necessarily a matter of opinion on which honest men may honestly differ, unless you apply, of course, the rule of thumb. If you apply the rule of thumb --

THE COMMISSIONER: You are talking only, I understand, of manufactured goods which are saleable on the market, which are turned over once, twice or three times.

MR. CAMPBELL: They are not always saleable.

THE COMMISSIONER: But as a rule they are; it

seems to me the margin of difference of opinion between you and those in the business would rather be small.

MR. CAMPBELL: I have already made my submission that ultimately the profit is realized, whenever it be, and the profit is the realized difference between the depreciated inventory value and the actual sale price, but that for the purpose of calculating our financial position at any particular period of time we were entitled to say "well, we have always followed this system and we wish to continue to follow it and we don't know of any provision of the law which makes it improper for us to follow it, as a system. There may be differences of opinion. Some people may think our discount, isolating any particular year, is excessive, but we say over a period of years that is immaterial because if we habitually, as we have habitually, take substantial discounts off our inventories then we are bound to show as the realized profit not the difference between our list selling price and what we actually received, but the difference between our depreciated inventory value and what we actually received.

On that question, my lord, of what is an estimate, and the proper legal basis of an estimate may I call your attention to a decision of the House of Lords under the British Income Tax Act where that question of estimate was discussed. It is the case of Sun Insurance Office vs. Clark reported in

Law Journal, 1912, at page 488.

THE COMMISSIONER: What volume of the Law Journal is that?

MR. CAMPBELL: Is there more than one? Isn't it only one volume for the year? I am sorry, my lord, my note only gives Law Journal, 1912.

THE COMMISSIONER: The Law Journal runs on from the time of its inception; we are not about volume 104 or 105.

MR. CAMPBELL: The year is 1912.

THE COMMISSIONER: Alright, I will get it.

MR. CAMPBELL: And the case if Sun Insurance Office vs. Clark.

THE COMMISSIONER: What page?

MR. CAMPBELL: Page 488. The holding in part is as follows:

" In the assessment of income tax of fire insurance companies, there is no rule of law by which to frame an estimate of the balance of profits and gains after allowing for the unexpired risks when the accounts are made up; it is a question of facts and figures in each case whether the assessment is fair both to the Crown and to the subject".

THE COMMISSIONER: Unexpired risks of a fire insurance company?

MR. CAMPBELL: That was the case of a fire insurance company and they did not want to take into their accounts the full premium that they actually received. They had received the premium in cash but,

of course, their risk ran over the end of the accounting period and they claimed the right to deduct a percentage of the premium received in respect to their continuing risk. That was their claim. At page 490 Lord Chancellor Loreburn said:

"An estimate being necessary"-- that is an estimate as to what was fair to appropriate to this unexpired risk --

" An estimate being necessary, and the arriving at it by in some way using averages, being a natural and probably inevitable expedient, the law, as it seems to me, cannot lay down any one way of doing this. It is a question of fact and of figures whether that is proposed in each case is fair both to the Crown and to the subject."

At page 491 Lord Loreburn again said:

" In the hope that it may help to prevent future misunderstanding, I will recapitulate my own opinion. There is no rule of law as to the proper way of making an estimate. There is no way of estimating what is right or wrong in itself. It is a question of fact and figures whether the way of making the estimate in any case is the best way for that case. Experience seems to have satisfied Courts of law for a considerable time that the method which I have described as the second is a useful working rule. But no one has said in

"this House that there is any constraint to accept it".

THE COMMISSIONER: He is describing there, I presume, the method they went by in arriving at --

MR. CAMPBELL: A percentage.

THE COMMISSIONER: A percentage of the probable loss of the fire insurance company.

MR. CAMPBELL: It was because there they claimed the right -- if my recollection of the figures is accurate -- they claimed the right to take 40% of the premiums they actually received to represent the unexpired risk at the end of the accounting period in question.

THE COMMISSIONER: I suppose you could only ascertain the propriety of such portion by going back over a long period of years to see what the number of fires was.

MR. CAMPBELL: It was a question of estimate.

THE COMMISSIONER: I must say how that can have any relation whatsoever to the question before us I do not see.

MR. CAMPBELL: Except this, my lord, that it shows there is no arbitrary, fixed, invariable rule of estimate. Estimate is a matter of opinion.

THE COMMISSIONER: Quite; you cannot apply the same rule to estimating the value of dry goods and apply it also to estimating losses in fire insurance.

MR. CAMPBELL: No, I am not suggesting you

should.

THE COMMISSIONER: I agree with that, but when you get down to estimating the value of manufactured dry goods well certainly I do not see why you have got to take in some rule that applies to an insurance company to get your measure.

MR. CAMPBELL: I only invoke the principle--

THE COMMISSIONER: You have a market for them. There it is and you turn over these goods several times in a year, or at least once in the course of the year. Otherwise you go out of business, and you tell me that the thing is only mere guess or some vague speculation. I cannot subscribe to that at all.

MR. CAMPBELL: It is, I suggest, a matter of opinion and judgment at what figure over a period of years you should carry this important asset of unascertained value.

THE COMMISSIONER: It is not over a period of years. We are talking now of your finished product. There is no use telling me that goes over a period of years. It doesn't.

MR. CAMPBELL: Well, the business of the company goes over a period of years.

THE COMMISSIONER: Oh yes, but we are not talking of the whole business of the company. You are talking about your way of placing the value of your finished manufactured products. Let us start with that. That, I say, does not go over a period of

years. It is turned over in the course of your business at least once a year or you couldn't continue in business. That being so you have your test right there. There is the market.

MR. CAMPBELL: I submit it does not make any difference whether we turn it over once or twice a year. When we do turn it over we must take into our accounts the difference between our depreciated inventory value at which we started that fiscal period and the amount of cash realized. We must take it in and we do.

THE COMMISSIONER: But you don't.

MR. CAMPBELL: We do, my lord, we take it into our accounts. The cash that goes into the till goes into our accounts.

THE COMMISSIONER: If you do why do you give me this page 40 of your brief?

MR. CAMPBELL: My lord, that shows the necessity of a discount from the list selling price to make an inventory that would be in any way accurate or fair or reliable. That shows, that demonstrates, for instance, the impropriety of carrying our inventory on list selling price without discount. That is the only purpose of that. We say we are justified in taking certain discounts.

THE COMMISSIONER: To refresh my memory on this, when you take your discounts on your manufactured product do you take it on the market value or on the cost?

MR. CAMPBELL: On what we call our list selling price. As a matter of fact I suppose they are habitually sold for less than that because discounts and a great many things come off it. It is what you might call the first asking price of the goods, the selling prices at which they are listed in the catalogues that are sent out, but they are, of course, subject to various deductions, but the point I was trying to abstract from this case I cited to your lordship was that this question of estimate is not a question on which we can lay down an inflexible and arbitrary rule and say that is the only basis on which this thing can be kept and there is no other proper basis. I submit there may be a number of different bases on which the thing may be calculated, and that anyone of them may be proper , and as long as you are consistent over a period of time nobody is the worse. Lord Atkinson in the case that is referred to, in the course of the discussion of that case I read, that I cited to your lordship, there was a reference made to the case of Gresham Assurance Society vs. Styles which is reported in the Law Reports, 1892, Appeal Cases, at page 309, and he referred to that case; Lord Atkinson, at page 495 in the case I cited referred to the Gresham case in these words:

" That case clearly decided that the receipts of a business are not in themselves profits and gains within the meaning of the Income Tax Act but that it is what remains of those

"receipts after there has been deducted from them the cost of earning them, which constitute the taxable profits and gains".

THE COMMISSIONER: I presume that is the measure here too, isn't it?

MR. CAMPBELL: We say until we have actually converted our goods into cash --

THE COMMISSIONER: That is not what you read. Read it again, please. You are talking there of your earnings. Read it again.

MR. CAMPBELL: "The case clearly decided that the receipts of a business are not in themselves profits and gains within the meaning of the Income Tax Act but that it is what remains of those receipts"--

THE COMMISSIONER: Receipts?

MR. CAMPBELL: Receipts generally.

THE COMMISSIONER: They tax on receipts of money --

MR. CAMPBELL: After there has been deducted from them the cost of earning them. If you sell an article for one dollar --

THE COMMISSIONER: I think, with all due deference to the learned lord, that is a very fine way of stating the law. You take in your earnings and you deduct from that the cost of earning them and the balance is your profits, of course.

MR. CAMPBELL: That is the profit, and I submit that is the basis of our fiscal legislation, that it is only when the profit is received in the

till that it is subject to taxation. It is the profit that is received. It is the profit that is actually realized. It is not a mythical profit that you may have in your inventory which you hope for on which you are liable to taxation. It is the profit you have realized, what the Income Tax Act refers to as profit received. That is the section, the wording of the section of the Income Tax Act.

THE COMMISSIONER: Would you again tell me in that case what was the nature of the business?

MR. CAMPBELL: That is in the fire insurance case, my lord.

THE COMMISSIONER: You see there it is easy; a fire insurance company takes in a lot of money in the shape of premiums, pays out a lot of money in the shape of losses, pays also a lot of money to those who go out and solicit business for it, and so on. Therefore at the end of the year you set off out of this money coming in, its earnings, you set off the losses and the balance remaining is profit.

MR. CAMPBELL: There is something else in that case, my lord --

THE COMMISSIONER: I must say I do not see what value it is to me in arriving at the cost of commodities saleable on the market to bring in principles that apply to the workings of a business where there is no commodity involved at all, where it is a question of insuring and taking premiums and taking the risk of a loss.

MR. CAMPBELL: And they had to estimate what was the fair proportion of the premium they had received to attribute to the continuing risk after the close of the fiscal period in question. It is dealing with this question of estimate. They made an arbitrary estimate of 40% and the question that was being discussed was whether that was a fair thing, and their lordships decided in the net result that it was fair, in the House of Lords. There had been a difference of judicial opinion in the lower courts.

The point that I would like to impress upon your lordship is the fact that in fiscal legislation, both the Income Tax Act and the Business Profits War Tax Act, it is only, in my submission, when the profit is received, that is, actually receivedand in the till, that it becomes a taxable profit. Section three of the Income Tax Act says, defining income:

> "For the purposes of this Act, 'income' means the annual net profit or gain or gratuity, whether ascertained and capable of computation as being wages, salary, or other fixed amount, or unascertained as being fees or emoluments, or as being profits from a trade or commercial or financial or other business or calling, directly or indirectly received by a person from any office or employment, or from any profession or calling, or from any trade,

"manufacture or business, as the case may be whether derived from sources within Canada or elsewhere; and shall include the interest, dividends or profits directly or indirectly received from money at interest upon any security or without security, or from stocks, or from any other investment, and, whether such gains or profits are divided or distributed or not, and also the annual profit or gain from any other source including",

and then going along to a long enumeration, but I submit that the test there is what has been received. In other words, we are not liable to pay taxes on anticipated profit, but it is only when the profit is actually received and in the till that it is subject to taxation, and the same principle, I submit, applies under the Business Profits War Tax Act, under section six, where the profits are set up, "profits shall be the net profits arising in the accounting period". In other words, until the profit is actually received and in the till in my submission it should not be called a profit at all because up to that point it is a mere estimate. Once it is received in the till it becomes accurate. Up to the point of actual receipt it can be nothing more than an estimate which may or may not be accurate.

MR. McKUBR: If the profit is invested in goods and in the fabrication, cost of fabrication of goods after you have received it how are you

going to find out what the profit was without you value the goods?

MR. CAMPBELL: As I say when you have converted your goods into cash you establish your profit. That is when you receive it.

MR. McRUER: But you have put it back into other goods.

MR. CAMPBELL: But it must go into your till first of all and when it goes into your till it goes into your accounts, and you cannot escape it. That is where I suggest, my lord, that it becomes a determined and fixed item, when realized, and then it enters into the accounts and it no longer becomes an estimate, it becomes something fixed and invariable, and that is the way we keep our books. Up to the point of its receipt, whether estimated generously or otherwise as your lordship may think as to what this particular asset would realize, when it did realize its price of sale we did record, and we had to record, and we do, in fact, record the actual price so realized.
As to the percentage that this company was accustomed to take, my lord, the original 20% or thereabouts, and then rising to 40 and then to 60 or more, these percentages were what the management thought were proper deductions to make to be on the safe side in respect to the value of that asset of unascertained value, and theoretically unascertainable value, and it would not affect the shareholders or the public or the taxing

authorities -- except, as I say, if you isolate it for one particular period -- whatever the percentage was as long as you take into your accounts the difference between, not your list selling price, but your depreciated list price and the actual sum realized in the course of trade.

Now, the general course, insofar as taxing authorities might be interested in isolating a period, I think it would be proper to call your lordship's attention to the fact that the general course of the corporation tax has been upward. In other words we began with 6% corporation tax in 1919 and we have reached now a corporation tax of 12½%. There has been a gradual rise. It didn't all go up at once.

THE COMMISSIONER: Are you talking of the Income Tax?

MR. CAMPBELL: Yes, I am speaking of the Income Tax Act. The general trend of taxation has been up so if we postpone our taxes from one year to the next year in the ordinary course of that legislation we pay more than we would have paid if we had dealt with it in such a way that we would have paid in the previous year because the general course of that taxation has been up. It increased from 6% in 1919 to 12½% in 1933. I believe now, my lord, it is 15%. I thought 12½ was bad enough, but the general trend of the tax has been up so that the taxpayer does not benefit by a system which postpones his tax to a following year, as he

almost invariably runs, in fact, into a higher rate of taxation than he would have to meet had his system been such that he dealt with it otherwise. The same way under the Business Profits War Tax Act. We would have had an interest to have claimed, for instance, our 7% on all this depreciated value of our inventory, but we do not, in fact, make any such claim. Whether or not we will have to reconsider that position when we get before the Exchequer Court time will tell, but we cannot be got both ways. If it is capital in our business we are surely entitled to be allowed the statutory percentage upon it before the amount of any tax is estimated. But I suggest, my lord, that it is a misnomer to call this discount off our inventory either a reserve or still less a secret reserve.

First of all there was nothing secret about it in the sense it was not patent on the face of our documents. It was patent on the face of our documents and he who runs may read if he opens the inventory book. The inventory is totalled up at a certain figure and the percentage, whether it be 60% or 40 or 20, is taken off at the end, and it is visible at a glance, but it isn't properly speaking a reserve at all. It is an arbitrary valuation which, for the purposes of balance sheet and bookkeeping, we put upon a certain asset. On the company's books is certain merchandise and it carries that merchandise at a certain figure in its accounts. It isn't a reserve. We

do not set aside a certain fund and add to it year by year as we do with depreciation, or obsolescence or any of those contingent reserves. With any of these other reserves there are funds that are set up specially and they are built up onthe books but this is not dealt with that way at all, my lord. Inventory is simply an estimate of value placed upon a certain asset belonging to the company in the shape of merchandise which it is carrying on its shelves for sale.

THE COMMISSIONER: It is not only merchandise. So far you have dealt with that one thing, simply merchandise, but your inventory consists of a great many more things. I have here several of your annual statements that I have picked up at hazard. Here is one for 1924. Now, your inventory is specified, itemized there, cloth $1,286,000, process and yarns, $246,000, raw cotton $682,000. Now let us stop for a moment there. What about your raw cotton? When you are telling us what your costs of production are for a given year how do you work your raw cotton, always at six cents a pound?

MR. CAMPBELL: It was carried,as I recall it, at an arbitrary figure. It was carried through the accounts at an arbitrary figure.

MR. McRUER: At 15 that year, and Mr. Brown's figure of what it should have been is 28 cents a pound.

THE COMMISSIONER: There you are.

MR. CAMPBELL: But we carried it --

THE COMMISSIONER: Carried it where, at 15, Mr. McRuer?

MR. McRUER: It is taken into inventory at 15.

THE COMMISSIONER: I mean to say this, when your costs of production are being arrived at what do you put your raw cotton at?

MR. McRUER: We don't know that.

THE COMMISSIONER: Oh yes, they told us that.

MR. McRUER: I think your lordship is thinking of Dominion Textile.

THE COMMISSIONER: No, arriving at the selling price of their article they took into consideration the raw material as at the time of the sale.

MR. McRUER: At the current price, yes.

MR. CAMPBELL: I assume in figuring their selling, asking price --

THE COMMISSIONER: I say all these things are all important to be got at, to find out what are your real profits.

MR. CAMPBELL: Yes, my lord. My submission is our real profits are demonstrated in the result of the transaction when it is converted into cash.

THE COMMISSIONER: You say on the onehand you cannot make a real profit on this article unless you get so much because our costs of production are so much. You have your costs of production for a list of things and for the raw material which we will say you value at 25 cents a pound, or whatever the market value at that time is. Then, we find when you

take it out of your inventory you had it there valued at only six cents a pound.

MR. CAMPBELL: My lord, for the purpose of our inventory surely we are entitled to list these --

THE COMMISSIONER: When you tell me that it is bound to come out in the long run I do not accept that.

MR. CAMPBELL: It seems to me that is inevitably so.

THE COMMISSIONER: No, because you see, Mr. Campbell, your raw material disappears. It is not like your finished article.

MR. CAMPBELL: I know, but we carried that raw material at a certain arbitrary figure on our books.

THE COMMISSIONER: You are carrying it at six cents. When you take it out of inventory and put it into this year's operations you put it there at the market value which may be 25 cents, and you want a profit on it in excess of the 25 cents.

MR. CAMPBELL: When we sell that finished article the merchandise will realize a certain sum of money. We turn the sum of money we realize into our accounts. That is what we do realize and we carried these finished goods in our inventory before sold at a certain depreciated figure, and we necessarily show on our profits --the difference is our profits and we are bound to show it and we do. So for the life of me I do not see how that can

properly be called a reserve. We have estimated the value of a certain asset, the problematical ultimate value and we put that estimated value into our accounts --

THE COMMISSIONER: How can you say that your six cents a pound for raw cotton is a problematical ultimate value?

MR. CAMPBELL: Because raw cotton is only one element.

THE COMMISSIONER: You cannot wave it aside that way. In that year it was 50% of your finished article.

MR. CAMPBELL: Alright, sir.

THE COMMISSIONER: Let me take another year. Here is the year 1923. Your cloth was $1,201,000, your raw cotton $789,000. Here is the year ending March, 1925; your cloth was $868,000 and your raw cotton $461,000, more than half.

MR. McRUMR: And that was taken into inventory at 10 cents a pound and Mr. Brown's figure is 28 cents a pound. So the figure there is on the basis of 10 cents a pound instead of 28.

THE COMMISSIONER: And the cost of production goes on the 28. Now, Mr. Campbell, I want to leave this to you; we have been in the habit of taking about ten or fifteen minutes of a rest for the sake of counsel, of course, but you want to go away this afternoon?

MR. CAMPBELL: Yes, my lord, but I have very

little more to say really.

THE COMMISSIONER: Well, we will take a few minutes.

-- The Commission adjourned for a short recess.

(page 18625 follows)

-- On resuming:

MR. CAMPBELL: My lord, at the adjournment I was dealing with the suggestion that properly speaking there is no profit which we should take into our account of profits until the goods are actually sold and disposed of and t at a transaction of sale will establish the profit and then we must take it into our accounts, and we do in fact take it into our accounts; that anything in the nature of an estimate in advance cannot be anything more than an estimate and that unrealised profits are not. properly speaking, profits at all and certainly are not taxable under the taxable acts until they are actually received. This Company, my lord, operated its books substantially on the same basis. That is, as far as my information goes, how professional men generally keep their books of accounts. They do not take into their books of account as ~~they~~ a profit a fee that is due them in respect of a service that they may have rendered until they have actually received it and when they have actually received it they take it into their account and it becomes a taxable part of their profits - whether taxable or not - in respect of the accounting period in which it is entered in the books. In effect that was the result of this company 's methods, that when the profits was realised it took it into its accounts and then it was shown and was not in fact concealed and could not be concealed frok anybody.

THE COMMISSIONER: Take my position. I am not in the position of a taxing officer who has to have an annual basis to work on. I can look away back as far as you want to bring me - 1910 you have taken there. Now, do you mean to tell me here that 27 years after point of departure you are still unable to tell me what your profits have been?

MR. CAMPBELL: I say that the accounts as kept showed our profit because when it was realised it was taken into account. In other words, it comes into the items of sales that your lordship ---

THE COMMISSIONER: You mean these actual statements, they actually show---

MR. CAMPBELL: They show the actual amount received from all sales.

THE COMMISSIONER: Then they show your profits from year to year?

MR. CAMPBELL: We have got this inventory, the inventory item, which is entered at an arbitrary basis both at the beginning and at the end of the accounting period. I am looking at the statement of 24, my lord. We credit there a certain sum for sales. Now, it is the actual amount received by the sale of goods that was sold in the accounting period. That is not a matter of opinion, that is a question of fact - that is the amount which our sales add up to. Then we add that to it for the purpose of this computation the inventory at the end of the account period and from the addition of those two we subtract the inventory at the beginning of the

accounting period and those two inventories are taken on what I confess is an arbitrary basis but I suggest that over a period of time it is all the same, as long as we are consistent.

MR. McRUER: You are not consistent, you enter up different values every year.

MR. CAMPBELL: No, I do not think that is so. There have been certain variations but our system is consistent in the sense that we always start from our list selling price and deduct and there may have been changing conditions which justify those increasing percentages.

THE COMMISSIONER: Between 1910 and the end of your last fiscal year - that is, end of March last year - what are your aggregate profits or losses, whatever you like to call them?

MR. CAMPBELL: Well, I am afraid I cannot give your lordship that figure.

THE COMMISSIONER: You told me that I get them by simply adding these figures.

MR. CAMPBELL: I would say, yes. If you take all the items credited to the sales account and deduct the items shown on our cost side and then make the proper deductions for goods on hand at the beginning and end of the period you get our aggregate cost for the period in question, and if you divide it by the number of years in question you would get our average cost if it was only a question of establishing an average, but I cannot see myself, my lord,

it may be from my lack of experience in bookkeeping matters - I cannot see that we did not, over a period of time, fully take into our accounts actual profit when it becomes actual. It may be that we did not anticipate our profits actually but I submit that is not material as long as our system over a period of time is a system which works no hardship. Professional men generally follow the same system- doctors, lawyers, dentists. All people of that kind, they take into their accounts their fees when they get them in cash and I submit that is the only safe and sane system. Then you know you have been paid and you take it in as profit and your hopes and expectations you are not called upon to estimate or discount. There are a great many methods in valuing in the textile or any other industry and your lordship would no doubt have in mind in this question of valuing textile inventories that certain elements that enter into the textile business are of a widely fluctuating character. Take, for instance, the item of raw cotton. It fluctuates violently up and down. If my recollection of the record is right in 1930, I think it was, there was a drop of 75% in the cost of raw cotton, dropped from 43 down to I think 11. Those are approximate figures. In any event it is an item that fluctuates violently and therefore any inventory in which it is an important element should be so calculated or estimated for the purpose of balance sheet records

on a very conservative basis allowing for possible wide fluctuations, so that you are not anticipating a profit which you may never realise. When the profit is realised you are bound to show it and it is in fact shown in the accounts.

THE COMMISSIONER: You do not show it in the same way. When you are charging yourself with it you put it in as actual value regardless of what you pay for it and when you are crediting yourself with it, put it in at 6.

MR. CAMPBELL: In our inventory we take it in at certain value at certain periods but at the beginning and end of the accounting period the inventory is added to the accounts - on an arbitrary basis if you like - but it is added there as one of the elements which enters into calculation of what we call net profits. My submission is it is a sensible system and while there may be room for a difference of opinion I submit it was a sensible system which the Company had originated many years ago and which it has followed consistently, subject always to the fact that there have been increases from time to time in these arbitrary values which have been taken. We think that the system that we followed had certain advantages. I think contributed to greater stability, for instance - that we were not led into calculating profits or dispensing profits before they had been actually realised and earned in cash. It embodied at least, I think, the principles of caution and foresight. Fictitious profits or losses were

avoided because when we make a profit we take it into our accounts. A mere anticipation of profit we do not take into our account on any accurate basis, we take it in on an estimated basis and the estimate certainly provides for a substantial discount to take care of the possibility of loss. But I submit that over a period of years it is a sensible system. Our shareholders, insofar as they are concerned, have approved of it and I do not think - of course, we will be before another tribunal which will determine whether the taxing authorities were injuriously affected by it or not and we will have to persuade them, if we can, that they were not injuriously affected but so far as your lordship is concerned I venture to suggest for your consideration that it was a reasonable system which we followed consistently and that averaging over any reasonable period of time no one was injuriously affected by it. It had certainly the advantage of being a simple system - simple in its basis of calculation and a system which was susceptible of being easily followed because it was all calculated. We always started from the basis of list selling price and from that basis we took certain percentages. Those percentages may have had the effect of reducing us to cost or less than cost. Some years no doubt cost and some years less than cost but whether we reduced to cost or less than cost when the goods were actually sold we had to take into our account what was actually received and if it was profit

it entered into the accounts as profits and was shown in those accounts and was, I submit, the system was fair to our shareholders, it was fair to our creditors and fair to the taxing authorities. It was fair to our employees inasmuch as it gave stability to the company's business and did not expose it to wide variations of prosperity and adversity which would necessarily have resulted had we been accustomed to follow from month to month or year to year the wide fluctuations of the raw material market.

I therefore suggest, my lord, that the methods in which we kept our inventories was a right and proper method and I think had these advantages, as far as our shareholders are concerned - first of all they have not complained and in the second instance it enabled us to maintain a stable dividend policy. There is attached to our brief, my lord, a record of the dividends actually paid by this company for the period going back to its origin I think and I hope your lordship will find ---

THE COMMISSIONER: I think Mr. Bruneau went into that the other day.

MR. CAMPBELL: I don't know whether your lordship's attention has been called to this.

THE COMMISSIONER: Yes, that is the last pages, 41 and 42.

MR. CAMPBELL: Yes, my lord, pages 41 and 42. Well, the dividends are shown on page 42. Your

lordship will note there that in the first period, that is previous to the financial reorganization of 1910, first of all there was five years or more in which no dividends at all was paid. At that time there was only common stock and during the five years no dividends at all were paid and the dividend in other years varied from 1% up to a maximum of 4%. The payment of 4% was paid for a number of years, 3%some years and 2% and never more than 4%.

MR. McRUER: I do not agree with you on the basis of the common stock, what it was issued for.

MR. CAMPBELL: We are entitled to assume , my lord, for the purpose of this discussion that the common stock was legally issued and legally outstanding and proper value was given for it. I do not think there is anything in this record which would enable this court or any other tribunal to give a contrary finding.

THE COMMISSIONER: You talk of legal value and proper value - whatever was given for it may come within the definition of the legality - the point is: was actual cash given for it?

MR. CAMPBELL: I think Mr. Bruneau has already demonstrated ---

THE COMMISSIONER: Yes, we have a note of that.

MR. CAMPBELL: Actual cash value was given, 100 cents on the dollar.

MR. McRUER: I just say I did not agree with Mr. Bruneau on that.

MR.

MR. CAMPBELL: I do not suggest that you are liable to agree with many of our submissions but we are still entitled to make them.

MR. McRUER: That is quite right. You are making them not as submissions, but as statements of facts.

MR. CAMPBELL: I say the actual dividend that we paid on the capital that was outstanding, according to our record, was the figures I have mentioned. In this way, since the reorganization of 1910, there have been as far as the common stock is concerned --- first of all, our dividend policy as to the preferred has been quite consistent. We have paid 6% ever since the inception of the preferred stock. It is non-cumulative but in fact we have paid the 6%. The common stock during 9 years there was no common stock dividend in that period of time. During the other years it varied from a minimum of 2% to a maximum of 8%. I believe the average works out at about 4%. No, in the last ten years - I had it worked out for the last 10years - and I am told it works out, the dividend on the common stock, works out at ÷ 4% per annum. So that my submission is, my lord, that we were enabled to deal in this able manner with our preferred dividend - it was not cumulative but it was properly payable if earned, and we were able to maintain it without interruption from 1910 and we were able to do that because we did not violently write up our profits one year and violently write them down the next. That our system of inventory valuations gave us at least that advantage that we

w
entitled to show a stable condition from year to year which justified us in maintaining a stable dividend policy in respect of our preference shareholders who had, of course, first claim upon our available earnings. So that these are some of the advantages of our method of keeping our inventory. I do not suggest that it was not capable of possible variation but I do suggest that it was a system which an honest and capable business executive was justified in following and which commended itself to his judgment as being sound over a period of years, and as far as our shareholders are concerned we have certainly not so far been exposed to any criticism, adverse criticism in that respect. I am sorry, my lord, I have got to run and I must therefore ask your lordship to let me give place to Mr. Bruneau, but I do submit that taking over a period of years our method of conducting our inventory was fair to all concerned. There was no reserve in that. It was a question of the valuation in which we carry a particular asset. Arbitrary valuation, if your lordship likes, but a valuation of which we carry that asset from year to year. What the company has as merchandise and until it disposes of that merchandise and turns it into cash no person can say what profit is involved in that. Can be nothing more than hope and expectation until actual realisation takes place. When the actual realisation does take place and a profit realised it enters into the accounts and

is disclosed and is declared and enters into all our statements. I therefore submit the company had a right and proper system and its system should not ~~b-eht~~ be the subject of adverse criticism.

I am very much obliged to your lordship for having accommodated me and to my friend Mr. McRuer.

THE COMMISSIONER: Very well, Mr. Bruneau.

ARGUMENT BY MR. BRUNEAU, K.C. (resumed)

MR. BRUNEAU: When I stopped this morning I was just taking up that letter which was sent on December 1921 in further explanation of the figures contained in our returns under Business Profits War Tax Act for the year 1920.

THE COMMISSIONER: I presume that what you want to say about that letter is that it showed on its face that the Department knew at what value you were holding your raw cotton?

MR. BRUNEAU: Yes, and ---

THE COMMISSIONER: You told me that the other day, I think.

MR. BRUNEAU: Well, the question came up - I think I interjected a remark in the course of Mr. McRuer's argument.

THE COMMISSIONER: What page?is it on?

MR. BRUNEAU: 376.

THE COMMISSIONER: Yes, that paragraph is the one you referred to particularly.

MR. BRUNEAU: That letter read, my lord - you remember the first paragraph - 5,823,000 pounds

carried from previous year at approximately 9¢ per pound. That is, it shows there it was being carried at that fixed price.

THE COMMISSIONER: Yes, I realise that.

MR. BRUNEAU: And shown in the inventory at that figure. That is, that report was really carrying over for a two-year period and it was reduced in value on account of the slump to 6 ¢ per pound.

THE COMMISSIONER: That has a great deal to do with the question of whether or not there was concealment from the taxing officers. Yes, I am giving due weight to that letter.

MR. BRUNEAU: Now, in view of the fact that the average price for the year ending March 31st, 1919, was 30.50¢ and that I think---

THE COMMISSIONER: March, 1919?

MR. BRUNEAU: Yes, that was for the year before. As we said, it had been taken over from the year before at the same figure and the average figure on that year as quoted on page 368 was 30.50, so that I take it that that price was available to the government and in any event the price for 1920 was cited in the next paragraph of our letter because we told them we had 1,670,404 taken into the inventory at 40.14¢ per pound, being the actual cost price which we asked to have reduced to market value by depreciation of 30 cents per pound.

THE COMMISSIONER: You mean that would bring it down to 10?

MR. BRUNEAU: That brought that down to 10 cents. Now, we were disclosing there that the difference at any rate between the 9¢ price or practically 9¢ - in fact, averaged 8 and a fraction - but that the difference between that and 40.14 was being carried in the inventory and that that amounted to an adjustment which works out on that item alone of $1,813,282.20.

THE COMMISSIONER: Now, that letter, as you asserted the other day, is notice to the person receiving it of what you were doing. What was the result?

MR. BRUNEAU: One of the points I make is that it is significant that that letter was not received as a disclosure on a new fact not previously known to the Government.

THE COMMISSIONER: Can you tell me what answer was made to it?

MR. BRUNEAU: There was no particular answer to that particular letter but Mr. Elliott has given in the course of his evidence the action that was taken upon it.

THE COMMISSIONER: That is his evidence at page 13175?

MR. BRUNEAU: I think around that page.

MR. McRUER: Page 13175.

MR. BRUNEAU: He gives the exact action that was taken upon it. Yes, in fact he gives it better at page 13177.

THE COMMISSIONER: What does it say there?

MR. McRUER: Q. Now, this was part of the application for a reduction from profits due

to loss on inventory, was it not? A. That is correct, and perhaps I might just give you the figures that are reflected.

Q. Yes, do, please. A. In respect to raw cotton as the letter states they had a poundage of 5,823,000 and we allowed a reduction of 3¢.

Q. In response to this application?

A. That is correct; in money that amounted to $174,690.00. Then, in respect to raw cotton again a poundage of 1,670,464, although the company claimed a reduction of 30¢ per pound we only allowed 20¢ a pound, and in money that amounts to $334,092.80. Then, the third item, that was manufactured goods or cloth as it is called in the letter, 20% of manufactured cotton values, $477,050, which extended means in money for an allowance by way of taxes $95,410, and the sum of these three items amounts to $604,192.80, which was the amount I told you the Department allowed, in fact, as against their claim of $823,901.20.

Q. And is there anything on the records to show that at that time when the company made that claim for an allowance out of profits for the purpose of loss on inventory that they had set apart in the previous four or five years, $2,312,767.50 as inventory reserve?

A. At that time there was nothing on record to so indicate."

MR. BRUNEAU: That is just where we take issue.

THE COMMISSIONER: You are continuing the evidence?

MR. McRUER: Yes, reading the next question.

THE COMMISSIONER: What is the answer?

MR. McRUER: "At that time there was nothing on record to so indicate." They had made claim here for further deduction on the basis of their Profit and Loss Account and their Profit and Loss Account was built up on the basis of the inventory at the reduced price. Then they came and made an additional claim of $823,901.20, and in this exhibit that Mr. Bruneau referred to this morning that is the certificate in regard to "Inventory costs less depreciation deducted as per attached statement to bring amount to market value current within 12 months of the date of inventory..... see final statement of profit and loss." So what they did was to take the Profit and Loss Account which had been built up on the basis of the discounted inventory and claim an additional amount of $823,901.20, as they say, to bring it to the market value current within the 12 months of the date of inventory, but that is not the case at all. They were bringing it away below that because they were taking the 800,000 off the already discounted inventory.

MR. BRUNEAU: No, what we are stating in that letter we took a discount and that discount has not proved enough to meet the facts.

MR. McRUER: Yes, the Departmental officials

may have overlooked the importance of that paragraph in your letter and your sworn certified statement which refers to a different thing altogether.

THE COMMISSIONER: However, it may be the wisdom brought around by many other things that have come to my attention but certainly these paragraphs here speak very loudly and it seems to me they should have--

MR. BRUNEAU: I think they did, my lord.

MR. McRUER: But on the basis of the claim which was actually made in the way it was formulated. It was formulated first on the profit as shown by profit and loss account, $1,838,443.29. Well, that was arrived at after the designated inventory and reading the thing as we do now, those two letters, one might think that they should have been on their guard. I think we should have those in because our record is quite incomplete.

THE COMMISSIONER: Is that something that is not in?

MR. BRUNEAU: It is copy that Mr. Elliott sent at my request.

THE COMMISSIONER: We will put it in.

MR. BRUNEAU: We are just dealing with this. Of course, if Mr. Elliott can give us another copy--

THE COMMISSIONER: Put it in. He is giving it a number. Mr. DeCotret says it is in, Exhibit 1062.

MR. DeCOTRET: But it is not on the file. It is already in.

MR. McRUER: They were notactually put on the files.

SECRETARY WHITELEY: Is this copy of Income Tax Returns?

MR. McRUER: Yes.

THE COMMISSIONER: They should be on the file. If you look up Exhibit 1062 do you find something?

SECRETARY WHITELEY: No. The situation there is that the only copies produced ---

MR. BRUNEAU: We started to produce them and we changed our mind.

MR. McRUER: I think what we had better do is to consent to complete copies of these income tax returns being made and filed.

MR. BRUNEAU: Yes.

THE COMMISSIONER: Because they are supposed to be filed. Immediately following is Exhibit 1063 which is the certificate submitted ---

SECRETARY WHITELEY: Yes, and they were filed later.

THE COMMISSIONER: We should have those now or as soon as we can.

MR. McRUER: I think we ought not to deal with it in any way that would give rise to any inaccuracy in anything that might be said.

THE COMMISSIONER: I haveto rely on you getting together and seeing that the proper things ---

MR. Mcruer: I will just write a letter to Mr. Elliott now.

SECRETARY WHITELEY: If Mr. Bruneau will let us have them for a short time we can have photostatic copies made.

MR. McRUER: Mr. Bruneau is quite right when he says his own office copies, he could not be sure that they are the accurate ones. The accurate ones are the ones filed with the Department.

MR. BRUNEAU: This one is obtained from the Department.

MR. McRUER: You got that from the Department to make sure your own were accurate.

MR. BRUNEAU: My lord, the reaction which that letter brought about was this: that it created no sensation whatever and that I think is fairly cogent evidence that the practice of the company must at all times have been well known to the Department and in fact I think it is a matter of popular knowledge and a well known fact that all these returns were supplemented by the Government's knowledge of the Companh's books obtained in the course of regular inspection.

THE COMMISSIONER: Of course, though, you must always remember too the very great strength of what is on the face of the returns which is certified to by officials of the company and accompanied byauditors' statements and so forth-- one is inclined to rely on them.

MR. BRUNEAU: These figures are all on the return. This letter does not introduce any new figures.

THE COMMISSIONER: Such statements as "Inventory taken on costs or on market value,"etc. when they are in all their solemnity, when the auditor says that he certifies this is the standing of the company and he puts in this paragraph, "According to statements furnished," well, we do not read that very scrupulously, we think the auditor knows. So that I can understand, even with a letter like that, a person might think he should not get behind it all and see what it is. However, whoever wrote the letter was not afraid of anything, of any such thing happening.

MR. BRUNEAU: No, he certainly was not concealing it.

THE COMMISSIONER: Carrying this cotton at 9¢ a pound and now wants it reduced to 6¢ a pound on account of the slump.

MR. BRUNEAU: He has already done himself justice to the extent and wants ---

THE COMMISSIONER: That is not the whole case, though. One does not look around for fraud or anything of the sort instinctively, one is inclined to take these things at their face value and not remember seeing them. They were signed by Mr. Bruce.

MR. BRUNEAU: Yes, Mr. Bruce was the Secretary to 1925.

THE COMMISSIONER: They looked very candid on their face.

MR. BRUNEAU: I think anyone who knew Mr.Bruce

would judge that he could not be anything else. The Government approved of the 1920 return as we have seen with full knowledge of the facts and they allowed the company to carry its large inventory of raw cotton for the period of 1920 at a figure of approximately 6 cents, and I submit that was a decision that they made on what was the correct way in which to handle this widely fluctuating commodity of raw cotton.

THE COMMISSIONER: Yes, it may all have been based on a mistake through a lack of sufficient knowledge and if your company suffered by that mistake you might have something to put forward to-day, but you did not suffer and if anything happened you benefitted by the mistake.

MR. BRUNEAU: Was not it a decision really in accordance with justice and common sense?

THE COMMISSIONER: Precisely, you are doing what Mr. Campbell argued should not be done.

MR. BRUNEAU: Well, it is under reserve, of course.

THE COMMISSIONER: I might prejudice your case.

MR. BRUNEAU: This is just between ourselves, as it was, but here you have Mr. Bremner who passed on this personally, to whom this letter was addressed, and if he had taxed this company on a basis of raw cotton at 30 cents in 1919 and 40 cents in 1920 they would have shown a very large, and I submit, an entirely artificial, profit in those years which would have disappeared at once as it did in 1921,

and in view of the fact that they were carrying substantially the same stocks of cotton right through.

THE COMMISSIONER: I remember in some of the years that Mr. Elliott gave us the history of you were allowed, just about that time, were you not, - Mr. McRuer, allowances were made for over-payments.

MR. McRUER: Well, Mr. Elliott - they allowed them $135,000 and they made allowance of $604,000 on this year that they claimed for ---

MR. BRUNEAU: For the reasons given.

MR. McRUER: For the reasons given but it was $600,000 off profits of the year.

MR. BRUNEAU: I submit that was a decision that was in accordance with same justice because if we had been asked to follow that - during the war period we claimed those cotton prices were going up to to fabulously artificial figures and we needed a certain amount of it for business capital and we claimed that we ought not to be forced to value this at a certain amount and I submit the inference from this letter it must have been ---

MR. McRUER: Well, Mr. Elliott tells us that you applied for $250,000 the year before and you were not allowed for it.

MR. BRUNEAU: Yes, and Mr. Bremner wrote and said, "You have not suffered that loss yet."

THE COMMISSIONER: Insofar as the facts were concerned Mr. Elliott was there dealing with these things all the way through.

MR. BRUNEAU: He never dealt personally with business profits.

THE COMMISSIONER: For a good many years anyhow. We have his evidence on what he thinks the result of it all is and, as a matter of fact, he thinks you owe the Department a lot of money.

MR. BRUNEAU: Well, he has an argument on his hands, my lord. I submit, though, that here was a decision made by Mr. Bremner with full knowledge of the facts and he was content to say - true the cotton was at 40 Cents in 1920 but it would be unjust to the taxpayer to make him pay on any such figure which came down so rapidly, and he said to carry it through, carry it for 1920 on this 6¢ rate, and no change was made over the 1919 figures, where we disclosed we were carrying it at the 9¢ rate. Now, the letter in the second place pointed out that a part of the inventory - on this I am not clear. to some extent we have lost the key here. If Mr. Bruce were here he would be able to explain something of this transaction, but the letter points out that amount of $1,670,000 pounds, apparently an amount in excess of the company's usual requirements, had been carried at its usual cost for that year.

THE COMMISSIONER: Do you say "Actual" or "Usual"?

MR. BRUNEAU: Actual cost for that year, and it asked to have this reduced by 30 cents a pound, that is 1,670,404 pounds at 40.14¢. He said we took part of our inventory in at 1,670,000, and I find

on looking at our inventory book we had in 1919 11,050 bales and in 1920 we had more than that and that the difference over 950 bales was carried at 40.14.

THE COMMISSIONER: Was this in fact taken in at 40 in your inventory?

MR. BRUNEAU: Yes, in the inventory book, page 64.

MR. McRUER: Brown did not say that.

MR. BRUNEAU: Brown, I must say, missed that but the book is right here and if you examine the figures, which you will see are in very ancient ink---

MR. McRUER: Just let us see this. Page 64 says---

MR.BRUNEAU: 852,008 at 40.14¢ and the price figured out there.

MR. McRUER: I want to see if that was taken into inventory at that.

MR. BRUNEAU: That is it, that is the inventory.

MR. McRUER: This book has been re-written.

MR. BRUNEAU: No, where it has been it is crossed out and ---

MR. McRUER: All sorts of things.

MR. BRUNEAU: This book is ~~behin~~ beyond criticism.

MR. McRUER: I am not criticising it, I am asking --

MR. BRUNEAU: 818,456 at 40.1, total of $328,528.

THE COMMISSIONER: Does that show what was paid for it?

MR. BRUNEAU: Yes.

THE COMMISSIONER: But when you took it into your inventory did you take it in at that figure?

MR. BRUNEAU: Yes.

MR. McRUER: These things are ticked by red pencil here.

MR. BRUNEAU: that was the Income Tax Inspector's mark.

MR. McRUER: I have an idea it is Mr. Brown's mark.

MR. BRUNEAU: No, that is old mark there. You will see that Mr. Grant of the staff of the Income Tax Department wrote a letter in which he reports to Mr. Brunner:

> "On examining this company's records we find that raw cotton was taken into inventory on March 31st, 1920, (the close of their fiscal year) at 40.14¢"

These are things which he saw. He came and saw our inventory records and he verified it was true that in fact we had taken a certain quantity at 40.14¢ and he goes on to say:

> "On the 2nd of June the quotations on this material, from Newburger Cotton Company, of Memphis, Tennesee, was 20¢. It is obvious, therefore, that the decline of 20 cents is exceeded. It has also been proven that the entire quantity of raw material in at the close of their year was to be absorbed at that date."

I don't know what the relevancy of this is but there is a key here that we will find out some day - "was to be absorbed at that date." That is, this amount he mentions as having been absorbed was down

thereand he enters the price at that date and he finds by actual quotation from other sources that 20 cents was quoted on the second of June and he allowed on this portion of the inventory to write it down by 20¢, although on the rest of the inventory- we have it down all the way to six cents.

THE COMMISSIONER: Yes, you see about that 9 and 6 cents - it may be, on account of previous dealings, the officials concerned, without looking back to see what the market values were from day to day through the years, would take it for granted, with the certificates of Mr. Bruce saying cost, as he did say, would take it for granted that you had paid 9 cents for this raw cotton and that you are now asking to have it written down to 6 cents.

MR. BRUNEAU: When they see we have carried 40 cent cotton at 9 ¢ can they make a mistake?

THE COMMISSIONER: If they had thought to go behind the quotations and look back and find out what the market was for this previous year then they would see this could not have cost them 9¢. I can understand how officials working from day to day and from year to year may take things for granted. That is why the Statutes require a certificate in solemn form and those signing them should hesitate before they sign them because they are given great weight by those handling them. As I said before - we don't look for fraud, we take it for granted, and I remember distinctly certificates signed state "Raw cotton taken in at costs." Well, there was nothing to excite

suspicion.

MR. BRUNEAU: Is not the favourable ---

THE COMMISSIONER: And then the Auditor comes along and certifies that to be correct. Surely that is enough to mislead an ordinary official.

MR. BRUNEAU: Mr. Bruce was taking the cost right through on the same basis for his raw cotton.

THE COMMISSIONER: I am not saying what his taxes were. I am saying this 9¢, which was the culmination of his practice on that date, did not at allrepresent the actual market value of raw cotton and on account of the returns made and taken at their face value the suspicion of the officials apparently was not aroused. It was taken for granted - well, these people paid 9¢ and cotton to-day only worth 6¢ and here is their application for a reduction. Just as in the second paragraph they verify it. They found that to be absolutely true - that is, these people paid 40¢ and a fraction for their cotton and now we find it only worth 20¢.

MR. BRUNEAU: Yes, but at the same time they allow them on the remainder of their inventory to cut it down to 6¢.

THE COMMISSIONER: I say it must be because they said we thought you paid 9. Well, I cannot explain it all. Maybe on account of difference---

MR.BRUNEAU: I would say if we were attempting to put anything over the Department it was a most extraordinary letter to write.

THE COMMISSIONER: Well, how do you explain this? Mr. Bruce certifying raw cotton is worth so and so and he is taking it in at cost.

MR. BRUNEAU: My explanation of this ---

THE COMMISSIONER: When the fact is that the cost was a great deal in excess of that.

MR. BRUNEAU: My explanation is this:. For the first five years, as we see from the inventory books- it gives us at least an answer to that part of it- we see on March 31st, 1915 a certain price was found as the actual cost price of that year.

THE COMMISSIONER: I know, of that year. That cotton was gone long ago.

MR. BRUNEAU: Yes, the same quantity of cotton was replaced from year to year so that at the end of each year this quantity that they had when the taxing period began was still in their mill as part of the Company's capital with which it carried on business.

THE COMMISSIONER: What was there?

MR. BRUNEAU: This quantity of 6,000,000 pounds of cotton.

THE COMMISSIONER: The same 6,000,000?

MR. BRUNEAU: No,not the same.

THE COMMISSIONER: You cannot deal on that basis otherwise you get nowhere. You cannot say cotton costs me 9¢ a pound 20 years ago and I am still in business using cotton. We have another firm tell us that the value they put on their raw cotton over a period of years was the lowest possible point

in all those years - do you mean to tell me you could arrive at real profit by that means of calculation?

MR. BRUNEAU: Well, it has been seriously advanced.

THE COMMISSIONER: Well, it does not impress me very much and I say, Mr. Bruneau, particularly when you have under the Act to calculate your profits from year to year.

MR. BRUNEAU: Well, my submission is that under that Act the Company apparently claimed that it was entitled to carry the cotton at cost and by cost to mean the quantity on hand at the beginning of the taxing statute and to carry at actual purchase costs--

THE COMMISSIONER: The word "Cost" must have a present application. You cannot say - I had 6,000,000 punds of cotton 20 years ago, I have been manufacturing ever since. I find I have 6,000,000 pounds to-day. I am going to certify I am putting it in at cost and I am going to put it in at the value of the first stock I bought 20 years ago. That is not even honest.

MR. BRUNEAU: The only sensible theory that explains this correspondence and action taken upon it is that the Government approved of that theory.

THE COMMISSIONER: I say, No. I do not agree with you there. I say an official receiving the letter and having before him these solemn certificates that we are putting in our raw cotton at cost would never imagine this meant cost many years ago. He would think it was the cost at which they actually

bought this year's cotton.

MR. BRUNEAU: Well, the certificate for that year---

THE COMMISSIONER: Because you see, Mr. Bruneau, alongside of the 5,823,000 pounds you take out of it 1,607,000 pounds and you say for that particular quantity we paid 40 cents. Well, they naturally would assume for the rest they paid 9¢.

MR. BRUNEAU: No, they could not assume that from that letter. It was carried from the previous period.

THE COMMISSIONER: But with an accompanying certificate that it was being put there at cost. Surely cost means what we paid for it, not some value they chose to put that cotton was worth many years ago.

MR. BRUNEAU: Well, I have done my best to explain the way in which the figures were apparently put together. It is difficult to do that now because as I say we have not all the facts before us, but such as we have points to a practice of maintaining the cost from 1915 throughout on a substantial part of the company's raw cotton, and the letter to the Department I submit is not the letter of a company which has anything to conceal, because otherwise they would never have written a letter of this sort.

THE COMMISSIONER: I can only repeat what I said a minute ago - that letter was written and received in the light of certain certified returns and auditors statements. Now, we might go on

that way for a week and we would not be any further on.

MR. BRUNEAU: It was written in reference to the 1920 return which said "Cost less depreciation deducted as per attached statement."

THE COMMISSIONER: You see the starting word is "Cost."

MR. BRUNEAU: And then they give the attached statement which contains all this information.

THE COMMISSIONER: Yes, but you see the attached statement gives 9¢. If you go back of that, as nobody thought of doing, to the stock market quotations, one could see very readily that they paid more than that. Therefore, my business right now is not collecting any income taxes for anybody but is getting at your real profits.

MR. BRUNEAU: I submit there was no real profits made when that cotton was at 40 and jumped back to 6.

THE COMMISSIONER: You were manufacturing and you were selling and you were always taking good care to see that in making up your selling price, your cost of production, you were putting in your raw material at that, at the then market value. That is to say, for what you paid for it or at the time of the fixing of the price ---

MR. BRUNEAU: I referred to the inventory at pages 64 and 69 because at page 375 of his brief Mr. McRuer stated that if Mr. Grant had seen any such figures then they were figures which were obviously

false, that the Company did not take raw cotton into its inventory at 40.14¢ per pound. I brought the inventory book up for that purpose. Whatever may be said for our figures I can say this with entire safety that never was anything changed in our book to affect any statement made to the government or anybody else. The figures in our book are absolutely reliable and can be depended on to the last cent. Now, what conclusions we drew from our income tax returns it is arguable but as far as the books themselves are concerned nothing was changed and never was any statement submitted from the books which was not in accordance with the book.

THE COMMISSIONER: What about these very things I have been mentioning to you?

MR. BRUNEAU: Those were deductions.

THE COMMISSIONER: No, these returns by Mr. Bruce saying this is raw cotton and paid so much for it, when you paid three or four times as much for it.

MR. BRUNEAU: That is analysis made from statement obtained but the books themselves are there.

THE COMMISSIONER: No, analysis of the books, that is not a fair way to state it. It was not an analysis of the books, it was a misstatement of the actual value of what was being certified to under the pretence of it being its cost. It is not its cost.

MR. BRUNEAU: That is a point I submit we are

prepared to argue on the basis that company is entitled-

THE COMMISSIONER: I do not know why you persist in arguing it before me in view of what has gone on here before unless it is you are anxious to exculpate the company.

MR. BRUNEAU: Naturally with some remarks that had been made. I have to go on the written document, of course, at the time and on the evidence by Mr. Elliott, and so forth.

THE COMMISSIONER: Who else is to be heard?

MR. McRUER: Mr. Forsyth proposes, my lord, to make some representations on behalf of Canadian Celanese.

MRE BEAUREGARD: I am told it will be something like an hour.

THE COMMISSIONER: Well, the hours I find are liable to be stretched. We will go on with you tomorrow morning, Mr. Bruneau.

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-- The Commission adjourned at 5.15 P.M. to resume Wednesday, March 17th, 1937, at 10.30 A.M.

ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

A.S. Whiteley, Secretary,

ONE HUNDRED AND THIRTY-SECOND DAY

(Wednesday, March 17, 1937)

A R G U M E N T

Robert Brydie,
Official Reporter,

ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

A.S.Whiteley, Secretary,

Appearances:

J.C. McRuer, K.C. and E. Beauregard, K.C.	Commission Counsel,
R.L. Kellock, K.C.	For Primary Textile Co.
C.G. Heward, K.C. Aime Geoffrion, K.C. and C.T. Ballantyne,	For Dominion Textile Company.
S.G. Dixon, K.C.	For Courtaulds, Limited,
L.A. Forsyth, K.C.	Canadian Celanese Ltd. and Canadian Silk Products Limited.
Francois Lajoie, K.C.	For Wabasso Cotton Co.
A.S. Bruneau, K.C. and G.A. Campbell, K.C.	For Canadian Cottons.

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Ottawa, Ontario.
Wednesday, March 17,1937.

-- The Commission met at 10.30 a.m.

ARGUMENT by Mr. BRUNEAU (resumed)

Mr. BRUNEAU: At the adjournment we had just been speaking about this letter of December 17, 1921, and before leaving it I wanted to mention the third paragraph in which reference is made tothe finished goods.

As to the finished goods, cost less 15 per cent or the equivalent list less 40 per cent, the discount proved insufficient to protect the company, and in the last paragraph of the letter of December 17, 1921, the company makes application to obtain a further reduction of $148,072. According to the evidence of the commissioner of income tax, page 13177, the government conceded a further allowance of 20 per cent, thus further confirming the company's policy and sanctioning the principle that a discount of forty per cent from list price taken by the company in 1920 in carrying its inventories on its books should have been increased by another 20 per cent.

We therefore submit that the practice thus established by the commissioner of taxation warranted the company in continuing the same practice throughout the years, and in assuming:-

(a) That raw cotton being a highly fluctuating commodity should be carried in the company's inventories at a rock bottom figure; and

(b) That this rock bottom figure was in effect the proper market value of raw cotton for a company which was not a dealer in raw cotton but which was proposing as a manufacturer to carry such stocks over a long period of years, subject to continuous inflation.

(c) That the company was entitled, in estimating the value of its inventory, to take into consideration the fact that it never could dispose of this inventory at the end of any fiscal period without a substantial loss; that the inventory of finished goods was intended to be carried over, subject to replacements, for a long period of years and that its price must be based on the price of the raw cotton which enters into it and must for the same reasons be carried at a substantial discount.

(d) That a discount reaching as high as sixty per cent from listed selling price would be considered as satisfactory by the commissioner of taxation.

I do not wish to refer particularly to the income tax returns because that is something that is now taken out of the discussion. I submit, however, that in view of the letter to which I have referred, it is evident that the man who completed the income tax returns did not intend to conceal any information from the government, because he had just fully discussed with the departmental officers the very matter in which his inventory was related both to cost and to market. If Mr. Bruce, in the years 1921 to 1925,

stated that the inventory was based on cost or market price, there was no intention on his part to conceal any information from the government. As I say, the exact manner in which the inventory was related to both cost and market had just been fully discussed with departmental officers. The returns were not intended to conceal any information from the government and in fact did not ever conceal such information. The commissioner of income tax at page 13208 stated that at no time had anyone reported to him any difficulty about information being concealed by this company. If there was any mistake, my point is that it was not intentional. In fact, the record abounds with facts which are only consistent with a pretty full knowledge by the departmental officers actually in charge of the company's concerns. In some cases the certificate of inventories was left unsigned or uncompleted.

Returns for 1924, 1926 and 1927 were the subject of adjustment with the income tax department involving items amounting to $1,500,000 charged to repairs by the company, but ultimately disallowed by the department and passed as depreciation. To arrive at these adjustments an inspection of the company's books was surely required and made, and it is impossible to assume that the inspectors who challenged the company's figures in one department would simply shut their eyes to the company's statement of usual discounts in dealing with its inventories, or would allow

the paragraph dealing with inventories to go unchallenged when it had not even been completed.

Mr. Campbell pointed out yesterday that as inventories were disposed of they passed into the company's cash and all profits made on the difference between the discounted inventory price and the price of sale were included in the company's profits in the year in which they were actually realized. The moment the sale was made the profit was received, and not one cent of the company's profits has ever been left out of its accounts. We submit that if the company had had a meter through which all profits had to pass as they were received the result would be exactly what is shown by the company's balance sheets.

Mr. Campbell also submitted that we have the right to calculate our profits, as professional men do, in the year in which they are received. To estimate a profit before the goods in question have been sold is, we submit, to count the chickens before they are hatched--a procedure which is not only contrary to the wisdom of antiquity but is thoroughly unsound in law. Profits have been discussed by certain legal authorities, particularly in relation to income tax, because that is the point where profits come into legal contact, or one of the main points. I have cited in our factum some extracts from Paxton and Varco, Dominion Income Tax Law. The citations will be found at pages 30 and 31 of the factum. They show that the word "received" must be interpreted

to mean received in a sense in which it would be used by a business man in referring to the profits of the year of assessment.

Your Lordship will see that I have quoted the extracts to some extent where they go against our submission, but I think the whole quotation should be given. That is one of the statements they make. It is difficult to see in what sense a business man could state that he had received a profit upon goods which he had manufactured for stock but for which he had no orders at the moment and the realizable price of which could only be estimated.

The same authors also gave us their opinion that inventories should be prepared on the basis of cost. They recognize that the character of a business or a particular and well-established custom may require a lower valuation. The textile business is essentially a business of a special character, inasmuch as both its raw material and its products are subject, as we have seen, to drastic fluctuations; and if this rule is applicable to any business it is surely applicable to this one.

We further submit that a particular and well-established custom did exist in this case, that it was fully disclosed to the taxing authorities in the course of the years 1921 and 1922, was approved by them at that time, and in our submission we were entitled to presume that it continued to be acceptable until notice to the contrary was given.

Plaxton and Varco at the same place continue to support our argument when they state that there must be a turn over of the merchandise before a profit can be said to have accrued or received. Further, in the 1920 edition at page 195 we find that the ordinary commercial practice of business men must be wholly relied on in determining net profits.

The provision contemplates the determination of profits by the method of business men best suited to the particular business in question. These authors do not suggest a fixed, arbitrary rule of thumb but clearly allow latitude for the nature of the business, and they go on to state that the system adopted by the taxpayer for his own purposes is accepted, except in so far as he departs from good commercial practice. There is an interesting definition that will be found at page 31 of the Encyclopaedia Britannica. There the statement is made that it is absolutely impossible to ascertain the profits of a going concern from year to year with precision, because nothing more reliable than estimates can be given of the value of outstanding obligations.

In connection with this discussion, one thing I wish to protest emphatically against is the injustice of reopening questions which have been considered as settled for as long as twenty years. Three men on behalf of this company have dealt with the

departmental authorities in reference to the company's statements. All these men are dead. Mr. Baker, who was in charge of these matters from1926, died during the sittings of the commission after being confined to his home before the sittings of the commission began. It is not customary for correspondence to be preserved for so many years. Questions have been raised which might have been explained very easily by any one of these men. There may have been correspondence and memoranda dealing with these matters but we cannot find them to date.

We have submitted in our brief that the unfairness of making an exhaustive examination of a company's records or indeed, those of any person, long after the death of the persons acquainted with the facts, is repugnant to the most elementary principles of justice. It is not a principle which has generally been followed by governments, whatever may be their legal rights. Mr. Breadner, who attended personally to the claims and with whom settlement was made, has been dead for some years. I forget when he died, but if these matters had been raised four or five years ago he could have told us exactly what was submitted to his department.

If governments generally are to carry on in this manner in the future, then the taxpayers of the country must be warned that all correspondence with the government must be retained forever, and that under no circumstances must they remain satisfied if a

government officer tells them that he understands the situation and that no departmental letter is needed. They must deal with the department only in writing and that writing must be treasured forever, because the department will be entitled to raise these questions not against them but against their heirs to the third or fourth generation or even without limit. In France there is a limit of seven years. The tax resistance has always been stronger in France than in a good many other countries, and they have a seven year limit, which is something we should consider at some time.

The COMMISSIONER: Even if we had a seven year limit in respect of the collection of income tax that would not have any effect on my situation because I have to find what your real profits were anyway.

Mr. BRUMLAU: That is quite right. The question that has been raised is whether the government lost any money by this system. I gave Your Lordship figures with regard to the income tax assessments. We submit that the assessment as to the business profits war tax should be ignored as it was made without proper consideration of the fact that settlement had been effected after full discussion and disclosure of all the material facts.

The income tax department has made a more or less tentative assessment for $195,000 income tax and $67,000 interest on the basis of valuing raw cotton at the full market figure and reducing the

discount on the finished goods to twenty per cent.

We do not accept the government figures because in our submission they have taxed us on an artificial profit which was never earned. But even if the government is right it is too early in 1936 to ascertain the definite results of the company's system. In practice there is no reason why it should make any substantial difference even if the balance is against the government at the moment. A comparatively short period of prosperity relieving the company from the necessity of carrying the substantial stocks it has had to accumulate will inevitably turn the balance in favour of the government.

I am instructed--I would refer Your Lordship to the evidence at page 11388--that on September 30, 1936, as a result of increased sales the discount was lower than on the 31st of March 1936 by half a million dollars, and this amount will necessarily go into the profits of the company where it will be taxed at fifteen per cent. Should this process continue the March 31st, 1937, this amount may be substantially more. Should the inventories at any time return to their level when the income tax act began to apply to this company the amount of the government's claim would be entirely returned to it.

If this were solely a question of taxation it would not be a question of really serious concern. We ~~xxxxx~~ doubt whether it is really very material either to the company or to the government from the

narrow tax point of view, whether one system or another is followed, provided that the taxpayer does not keep on changing from one to the other. But systems of taxation have social effects and there are important considerations in favour of the system followed by the company. It is essentially a system that makes for stability in the affairs of a company.

With the price of cotton fluctuating as it does if the company carries its inventories at 100 per cent the result will be a series of continual ups and downs. The result of the company's system is that is reduces the sharpness of the ups and downs and allows business to travel instead on a more level keel.

This element of stability in the conduct of the business is helpful in every department.

As to labour, as appears from the records filed the company has in losing years continued to manufacture and to accumulate finished goods. The statement of raw material and inventory data shows finished and unfinished goods on hand at the end of the various periods in pounds. On March 31st, 1930, the company had 6,632,000 pounds on hand of finished goods, at the start of the depression. On March 31st, 1935, this had been maintained up to 8,095,092 pounds, notwithstanding the conditions which prevailed in the intervening years.

The company has, in the words of the order-in-

council recognized its responsibility to carry on its operations with due regard to its obligations to its employees and the public, and not to aribtrarily shut down its plants.

If a different policy had been followed a distressing unemployment situation would have resulted and the expenditures for relief by governments of various kinds would have been greatly increased.

Cornwall, Milltown and Marysville are all centres which have an exceptionally good record in the matter of relief.

In 1920 the discounts proved insufficient as an allowance to cover the depreciation in values and the government allowed a further deduction of $604,000. The company at the same time found itself faced with cancallations of orders on a large scale amounting to two million and a quarter dollars. But the company had protected itself substantially against this emergency by its policy of moderate valuations.

If the company had not followed a policy of stability,made conservative valuations of its goods and paid dividends on a moderate scale it could not have faced the situation; it would have made a better showing for its shareholders during the war years, but it would then certainly have found itself in the hands of its bankers, and, indeed, might have faced liquidation.

In any event there is no question but that without a stable policy more than 3,000 operatives with

their dependents would have been exposed to serious unemployment in 1920 when relief facilities were as yet undeveloped.

The way in which Canadian industry in general, and this industry in particular, maintained a stable policy during the war and adapted itself to post war dislocation certainly saved the taxpayer the cost of several years of unemployment relief. This company's experience in 1920 amply justified the adoption of a policy of conservative valuation and its continuation to the present time.

The company relying on the correctness and acceptability of its returns has been able to assume the risk of manufacturing stock for which there is no immediate demand. If its inventory had been carried at full prices losses would have been accentuated and the company's management would have been much more nervous about carrying large stocks of goods even without any consideration of income tax.

The obvious result of a change in the company's system is going to be to discourage manufacturing in excess of a company's immediate requirements, and if this is the case we may expect curtailment of work and greatly increased unemployment in any time of depression. The taxpayer, through relief, will bear a greater part of the burden formerly carried by the industry.

Not a single shareholder has come forward to complain to this commission of the conservative way

in which this business was managed, and I am instructed that not a single shareholder has complained to the company. We take it that our shareholders are satisfied with the policy of stability and steadiness in dividend and that they are unanimous in their support of the conservative stocktaking methods followed by the company since its reorganization.

The company has protected its customers against losses on goods due to falls in prices, a very frequent situation in the textile trade, and I am instructed that protection of this sort has been far from general. In 1920 cancellations of orders were accepted amounting to approximately $2,268,000. If the company had exercised its legal rights, or if it had been forced into liquidation and those rights had been exercised by a liquidator, many of its customers, converters, wholesalers and retailers would have been forced into liquidation. It is difficult to calculate with accuracy just what the results of insisting on such claims would have been, but there is no doubt that the effects would have been very serious on a large number of people, and, incidentally, would have reacted on the taxes paid by these people to the government.

If the company was able to assist its customers in this manner in 1920 and 1921, and on a more limited scale since, it was only because the goods ordered and made up were carried on its books at a low rate so that the company was prepared already to absorb

the loss. The contrary policy would have meant ruin to all concerned, as the company could not have afforded to accept cancellations of orders had it not valued its goods on the basis now suggested by the government and arranged the remainder of its affairs, and the distribution of dividends, on that basis.

Any policy which produces stability in the operations of companies is a benefit for the consumer There have been any number of instances of price wars and I submit that the consumer realizes now pretty well that the net result of unstable conditions is to lead to dislocation of industry and subsequent increases in prices.

The government saves to some extent on the system of the company, because it is the easiest system to check. The listed selling price has one advantage as a measure of value as it represents the utmost the company is trying to get for its goods provided agreement can be reached on what is a fair discount to allow from list price. All other questions of estimate disappear in the taking of the inventory. It is certainly much more simple for an inspector to check up on the list prices of a company than to enter into warehouses and examine the goods in detail in each case and make an estimate of his own for each individual item.

We have also submitted that if the company's system is abandonéd the company will have greater

difficulty in maintaining continuous employment and in standing behind its customers in times of falling prices.

Increased bankruptcy and increased unemployment can in no conceivable manner result i a sound basis for a good income tax return from the country's taxpayers. Even if by lowering the company's rate of discount the department may be able to make what, after all, can only be a relatively small figure, this must inevitably be offset by a loss from increased instability of business conditions which is not easy to calculate but which is none the less certain.

Again, if companies can carry their stocks at conservative figures on their books they will be encouraged to hold them in bad times instead of throwing them on the market. They will, therefore, be able to sell for a profit as good times return, and provide correspondingly higher taxes. Such a system helps to prevent the disorganization and panic which sets in when a fall in prices takes place and traders rush to get rid of their stocks and merchandise. If at such a time the company throws its goods on the market it makes the situation much worse; it ruins converters, wholesalers and retailers and inflicts on the government, and particularly on the income tax department, its share of their loss.

Another indirect loss which may be difficult to calculate, but is none the less certain, results

if the company is unable to manufacture for stock or is discouraged from doing so. In all companies profitable operation depends on the volume of the companh's production. If you can produce substantial quantities of goods you are going to produce them cheaper. Volume of production can be maintained by manufacturing for stock, as well as for orders from customers, but a company which does not have its inventory protected by conservative valuations cannot safely maintain volume of production by manufacturing for inventory. To the extent to which the volume is cut down the company is not in a position to produce as large a profit and the tax collector loses again.

We therefore submit that these considerations should be weighed before any suggestion is made that our system of conservative inventory values should be discarded.

(18681 follows)

For that reason it should be maintained. That, my lord, is all I have to say. I thank you for the attention you have given me.

THE COMMISSIONER: Whom do we hear next?

MR. McRUER: I am prepared to go on.

THE COMMISSIONER: What about Mr. Dixon?

SECRETARY WHITELEY: Mr. Forsyth.

THE COMMISSIONER: Mr. Forsyth?

MR. McRUER: Well, I don't know.

THE COMMISSIONER: Is he here; is he in Ottawa?

MR. BEAUREGARD: He is in Ottawa.

MR. McRUER: Probably I can fill in in the meantime by just dealing with the matters affecting Canadian Cottons when Mr. Bruneau is here and it will save him coming back again.

ARGUMENT BY MR. McRUER, K.C. IN REPLY:

Now, my lord, in reference to Mr. Campbell's argument he opened in respect to the inventory valuations by showing what deductions were made in the years 1910, 1913 and 1916. In the years 1910, 1911 and 1912 the deductions from list price -- and I am dealing with the manufactured goods and the goods in process,-or manufactured goods, that is the finished goods or at least,the manufactured, they are all classed under one heading -- the deduction was 18.75% according to Mr. Campbell and Mr. Bruneau.

THE COMMISSIONER: Deduction from?

MR. McRUER: From the list price. That was evidently an effort to bring the list price back to cost, and for the purpose of their inventory --

THE COMMISSIONER: Do you think it was? It was that, was it? Did Mr. Campbell say so?

MR. McRUER: I don't know that he said so, but that is the method in carrying on their business.

THE COMMISSIONER: Do you think that when the company has set a list price which I think you mean is the selling price --

MR. McRUER: Yes.

THE COMMISSIONER: And then take 18½% off of that, that the company had really in mind bringing it back to the basis of cost?

MR. McRUER: Yes.

THE COMMISSIONER: It is the first time I have heard that suggestion.

MR. McRUER: I think that is what the purpose of it was.

MR. BRUNEAU: I should think perhaps it might be better to say they were wanting to get the real value put on their books as distinct --

THE COMMISSIONER: I thought they were rather, Mr. McRuer, leaving a margin for possible losses on the actual sale.

MR. BRUNEAU: What they were trying to do was to set up the actual value on their books.

THE COMMISSIONER: As I understood it first they struck a list price which would be their ideal selling price.

MR. BRUNEAU: Yes.

THE COMMISSIONER: What they were trying to get; then they take off this 18 and some percent in

order to meet possible losses, to meet the impossibility of realizing their list price. Those are the only two things they had in mind. Now, I agree with you in this respect that I think you are giving them credit for something they should have had in mind but did not have in mind. I think the proper basis would have been to have had the question of cost before them when they were arriving at that value, but I don't think they did. I think they simply said "here, we think we ought to sell this article for a dollar, but we don't know, the market may fall, something may happen so we will value it at 82 cents instead of one dollar".

MR. BRUNEAU: There were a lot of other items that had to come out, my lord, quite a few items, the cost of selling --

THE COMMISSIONER: Yes, I know, yes, yes. I am afraid that they did not lay their foundation in that of costs.

MR. McRUER: Mr. Brown in making his computations as to what value ought to be put on the manufactured goods, has taken 20% off list price, and I think in an honest effort to get back. He said it was his honest effort to get back to the value that ought to be placed on them for inventory purposes, and, at any rate, whatever their motive was that was what they felt in those years was required as a reduction to protect them against loss due to falling markets and it was never greater than 20%.

MR. BRUNEAU: It was 26.89 in 1911 for one year.

MR. McRUER: Well, I just took down the figures that Mr. Campbell gave, and he gave 1910 18.75% --

MR. BRUNEAU: 1911 was ten, five and five and a further ten.

MR. McRUER: Well, at any rate, if it was 26 per cent in 1911 the other years it ran 18.75%, 20%, and it did not reach 25% until the year when the Business Profits War Tax Act came into force. When we come to 1917 then it is twice as much as they had found necessary to use in the previous years, and when we come to the year 1927 it is 70% as against 18 and 20% in those years previous to the taxation statutes.

THE COMMISSIONER: You say it was 70% in 1927?

MR. McRUER: 70% on both goods in process and finished goods, 70% deduction from list price.

THE COMMISSIONER: From list price?

MR. McRUER: From list price, and when Mr. Campbell puts it to your lordship that this was an honest effort to find the cost of the inventory, or to put the inventory in at an honest valuation how can one feel that in the year 1927 they required 70% deduction where they required 18.75 and 20% prior to the taxation statutes? Not only that, but we have in the very last year, in the year 1936, 65% deduction, saying it is only worth 35% of the list price, the whole inventory, all across the board, everything that we have got, only worth 35% of the list price, and that is the price we take it in at.

Now, Mr. Campbell said the percentage is unim-

portant. He said this is a principle whereby we try to arrive at an honest valuation of the inventory, the percentage is unimportant. The percentage is the very thing that is important. If you take off 15 or 20% off your list price I could not have any quarrel with that. I would think that is a reasonable thing to do, if you do it that way in valuing your inventory, to say "well, this list price is market". Now, they are entitled to value at cost or market whichever is the lowest, and they go back in a rough and ready way and say 20% off what we have as the market price will be a fair valuation.

THE COMMISSIONER: Will bring it back to cost.

MR. McRUER: Will bring it back to cost.

MR. BRUNEAU: There is a difference between list price and market price. List price is only an offer.

THE COMMISSIONER: It is your offer on the market.

MR. McRUER: It is your offer on the market.

MR. BRUNEAU: It is the offer but the acceptance when it comes forward may be different.

SECRETARY WHITELEY: It is often subject to what are known as trade discounts.

THE COMMISSIONER: Oh yes.

MR. McRUER: Trade discounts and all that; however, my point is that it is the percentage that is applied that tests the honesty of it.

THE COMMISSIONER: Your point seems to be if they do not wish to value their finished article on the selling price, on what would appear to be its

market value then they should go over to the other principle of cost. Isn't that your argument?

MR. McRUER: Yes, that is it. Now, the best proof of the unsoundness of the discounts they took, the excessiveness of the discounts they took, is found in their own brief, I think, at page 40. Now, if your lordship will just look--

THE COMMISSIONER: That is the page we had yesterday.

MR. McRUER: That is the page we had yesterday. Just look at this statememt for the year 1935.

THE COMMISSIONER: Is this 1935?

MR. McRUER: 1936 -- it is their year ending 31st of March, 1936. The company has compiled here a statement of the inventory with the prices, and first we have the yardage and then there is inventory list price per yard; then total list price. That is the extension only. Then we have actual price at which goods offered or sold and then estimated loss on inventory sold or unsold.

THE COMMISSIONER: That shows a difference of 20%.

MR. BRUNEAU: I should further point out, I think it is fair to point out, Mr. McRuer, that I intended to mean by those words I put at the top of page 39 that it is not the whole inventory. It is only certain --

MR. McRUER: It is on these lines you have selected to bring to the Commission.

MR. BRUNEAU: That is right.

MR. McRUER: To show how the discount is necessary,

because it is quite true on a great portion of their other inventory they may have sold at this price or higher and sustained no loss, but this is the one on which they estimate the loss to be so we may take this as the extreme, and not the average of the inventory. They may have made a profit on their whole inventory, very likely did on the turn-over, but this 22.1% is their total estimated loss onthe articles selected to bring before the Commission as examples of how they make a loss, but that year they took a discount of 65%, or over three times as much as their own statement shows was necessary. Now, how can that be? It is quite true it is not an inventory reserve. I agree with my friend, Mr. Campbell, it is not an inventory reserve. It is nothing of the kind. It is perfectly patent that it is not a discount against probable loss on inventory because its excessive character shows that it cannot be regarded as such.

MR. BRUNEAU: My lord, may I interject a remark? There is just a little point I think I could clear up. That 20% which the Government has allowed includes nothing whatsoever for provision against loss. It is just the ordinary costs that go into production from the time when it is finished until the time when it is sold, and they allow us 20% to cover those items. They allow nothing for loss. So that 22 per cent on these goods would be in addition to the 20%.

MR. McRUER: I don't know what my friend is talking about, the 20% the government allowed --

MR. BRUNEAU: It is suggested 20% was proper.

THE COMMISSIONER: I think I understood Mr. Bruneau to say the government took 20% off of this inventory listed selling price to bring it back to cost.

MR. BRUNEAU: Not to provide for a loss. They have disallowed so far any suggestion --

THE COMMISSIONER: There again the proper principle is being applied. If you bring it back to cost -- I am not saying 20% is the proper figure to bring it back to cost though.

MR. McRUER: The important thing is here that on the examples that they bring in and show the selling price, or show the probable estimated loss, or actual loss as against the list price it is not as against cost, and as against list price it is only 21% off list price, 22% off list price, but they took 65% off list prices, and my point is it is not at all an inventory reserve. 65% is not an honest discount on inventory for probable loss but is simply a method of secreting profits and that is all. It isn't a reserve against any contingency taken on that basis because before the taxation statutes they got along on 18 and 20%. On the statement they bring in to the Commission as a statement to justify taking discounts it is only 22% --

MR. BRUNEAU: Plus another 20.

MR. McRUER: Plus nothing.

MR. BRUNEAU: Plus their other 20.

MR. McRUER: My friend cannot deceive us that way.

MR. BRUNEAU: I am not deceiving you.

MR. McRUER: Here is the statement of the inventory list price. Here is the statement of the actual price at which the goods are sold and the estimated loss on inventory sold or unsold, and that is off the list price.

MR. BRUNEAU: And the government allow us 20% off these actual sales.

MR. McRUER: I have never heard of the government allowing you anything.

MR. BRUNEAU: If you calculated them in advance--

THE COMMISSIONER: I thought you said a while ago that the government allowed you 20% off of your list price.

MR. BRUNEAU: Yes, sir.

THE COMMISSIONER: Now you say off your actual sales.

MR. BRUNEAU: That list price is calculated in advance of what that sale is going to be. Now, when--

THE COMMISSIONER: What is the figure of 20% allowed off?

MR. BRUNEAU: On the list price, my lord.

THE COMMISSIONER: Take your first article here which has a yardage of 5,185, the inventory list price is 50 cents and the actual price sold was 40 cents. Now, when the government allows you 20% is it off the 50 or 40?

MR. BRUNEAU: It allows 20% off 50.

THE COMMISSIONER: And that is where you took 65%.

MR. BRUNEAU: If we had made the correct estimate of 40 -- the government, mind you, is not allowing us for the drop in price; it is allowing for a large number of other items which are legitimate deductions.

THE COMMISSIONER: They are not considering your price. They are bringing it back to cost.

MR. BRUNEAU: Exactly.

THE COMMISSIONER: They figure that 20% off this particular list price will bring it back to cost.

MR. BRUNEAU: Yes, off the actual list price. If we calculate it correctly, if our offering price were not so high and we put it at what it actually brought, 40 cents, the government would allow us 20% off 40 cents.

THE COMMISSIONER: Are you sure?

MR. BRUNEAU: That is what has been suggested, at any rate.

MR. McRUER: By whom?

MR. BRUNEAU: So far in the course of negotiations these figures have been produced, a discount of 20% off list --

MR. McRUER: That is what Mr. Brown says, off list.

THE COMMISSIONER: That does not tell me if you had chosen to make your list price 20% less or 50% less they would still have gone on discounting.

MR. BRUNEAU: Yes, because these items would not be affected by that. All the items that go into that 20% are irrespective; they include nothing for loss.

THE COMMISSIONER: But there must be a starting point, and the starting point is either one or the

other. It cannot be both. Either it is your inventory list price or some actual selling price which you submit to the government.

MR. BRUNEAU: The deduction, mylord, is taken to cover selling cost as stated in our brief, page 5, overhead expenses, cash discounts, seconds, jobs, depreciation and unearned profits, and when Mr. Brown first made it up, when he and Mr. Shepard discussed the situation they both agreed on 15% at first and then on going over the figures they suggested 20%, and Mr. Brown made up his figures on that, but that does not cover us against loss. That is to cover legitimate deductions.

THE COMMISSIONER: Why should you be covered against future losses? You are being assessed on your past profits.

MR.BRUNEAU: What I say here is that while we have made an estimate on certain goods in our inventory that is nothing but an estimate; that is their list price and we take off 20%.

THE COMMISSIONER: It was more than an estimate; it was your selling price.

MR. BRUNEAU: We have taken a certain discount off that.

MR. McRUER: This statement that is put in on page 40 gives actual price at which goods are offered or sold and it is put in to show the loss, estimated loss on the inventory sold or unsold.

MR. BRUNEAU: The only thing --

MR. McRUER: The only loss you make is 22½% on

your own statement; that is all.

MR. BRUNEAU: If these goods had been sold on March 31st at this price they would have been put into inventory at this price and the government would have been quite satisfied, anybody would be quite satisfied to have a discount of 20% taken off this actual price.

MR. McRUER: I disagree entirely. If they are sold they are sold and we are not going to give you any discount on them after they are sold.

MR. BRUNEAU: In order to estimate their value at March 31, at the end of the taxing period you have to.

MR. McRUER: Well now, I will read further from page 40 of my friend's brief just to show what his statement is in regard to these classes of goods that are dealt with there.

" The Gibson and St.Croix Mills at Marysville and Milltown respectively are those in which fluctuations of price are most likely to occur. The foregoing represents a decline of 22.10% upon a substantial part of the company's inventory and many of these prices will have to be reduced still further to effect a sale. It is to be noted that this happens in a year of partial recovery when the best results should normally be looked for. A discount being necessary to cover unquestioned items has been tentatively suggested as 20%."

Now, they have selected these items and we have them showing that instead of a 65% discount on the whole of the inventory being necessary 22.1% on their own statement is all that was necessary on certain selected items, and as to the others we have no word that anything was necessary, but what is the amount that was necessary to bring the goods back to cost? In exhibit 917 we have the company's affairs reviewed since 1926, and we have the gross profit after depreciation, percentage of gross profit to sales. If you take the percentage of gross profit to sales and deduct it from the list price, from the sale price, you have the cost, the cost of the goods. Now, in 1926 the gross profit was 20.4%. In 1927 it was 3.9%; in 1928 it was 10.1%; in 1929 it was 5.7%; in 1930 it was 3.9%; in 1931 there was a loss of 1.6%; in 1932 there was 2.5%; in 1933 it was 6.8%; in 1934 it was 10.6%; in 1935 it was 10.9% and 1936 7.9%. Now, if there was an effort to bring this back to cost this would be more like the discounts that ought to be taken instead of in 1926 50%, in 1927 70%, in 1928 55%, in 1929 55%, in 1930 65%, in 1931 60%, in 1932 60%, in 1933 60%, in 1934 60%, in 1935 60% and 1936 65%. Now, I think I need say no more on this subject of the valuation of finished goods, of manufactured and finished goods. In regard to goods in process the discounts were of the same character and they bear no relation whatever to the cost of processing.

THE COMMISSIONER: When you say the discounts were

of the same character, they could not have been based on any inventory list price in that case, if the goods are only in process. Mr. Campbell did not explain that yesterday to me. It is only in connection with the manufactured goods you have the list price.

MR. BRUNEAU: I think they have been taking the list price of the finished goods and making a deduction.

MR. McRUER: Just look at Mr. Brown's evidence that he gave here.

MR. BRUNEAU: In making the discount they were most years exactly the same.

MR. McRUER: I will have Mr. Brown's evidence looked up in regard to that, pages 12109 and 12110.

THE COMMISSIONER: This particular page 40 deals only with the finished article which is ready to sell, and that is the only article Mr. Campbell really dealt with yesterday. He didn't have much to say about the other elements of the inventory so I don't know -- I have not been told yet how goods in process are valued.

MR. McRUER: I will look into Mr. Brown's evidence. Now, Mr. Campbell argued strenuously and my friend, Mr. Bruneau, has followed him in the same way, that it did not make any difference as long as we keep on doing this thing, that these discounts do not make any difference over a period of years because it all came out in the end.

THE COMMISSIONER: The end.

MR. McRUER: We have never reached the end yet.

THE COMMISSIONER: That far off event that Tennyson speaks about, I suppose, to which the whole creation tends.

MR. McRUER: Let me give you a very simple example of the effect of this now. We will take a company that starts up in business and they have capital and they say "well now, we need some inventory". So they go out and they buy $100,000 worth of inventory and they carry on business for the year and they sell it for $120,000. Well, you debit the account with the $100,000 and you credit it with $120,000, but they say"we have got to have some stock to go on and do business so we will replace the $100,000 worth of inventory"and they use $100,000 and go and buy more inventory and then that is the position they are in at the end of the year. Well, at the end of the year they have debited with the first $100,000 and they have debited with the second $100,000, and they have a credit of $120,000, but now they say"we must credit the account with the inventory on hand," and they have $100,000 worth of inventory on hand, but they say "oh well, we will not value that at $100,000, we will take 20% discount off it and then value it at $80,000". So you add up one side and you have $200,000. You add up the other side and you have $200,000, and they have not made a profit according to their books. So they start in the next year and they have $100,000 worth of inventory on hand. They carry it into the books at $80,000 and again they sell it at $120,000.

It is worth it; they make a 20% mark-up and they sell it for $120,000, and again they buy $100,000 worth of inventory and put it back where it was. Then they come to stock taking at the end of the year, and one side adds up to $180,000 and they say "well now, we will value that inventory at 60% this year, we will take 40% off", and they put $60,000 on the credit side and both sides add up to $180,000, and they have not made any profit yet according to their books. Then we come to the third year and their inventory is still worth $100,000, but they carry it in -- it was valued at $60,000 so they carry into the debit side of the ledger $60,000 again, and they make a loss that year and they only sell it for $80,000, and they buy $100,000 worth of inventory so that the debit side shows $160,000. Then they say "well, we have not had a very good year this year and instead of valuing that invdntory at 60% we will value it at 80% and they show $80,000 as to the value of the inventory on the credit side of the ledger, and you add up both sides and still they have not made any profit or any loss. So you go through three years straight, two of which have made profits of twenty and twenty which would be $40,000, one in which they made a loss of $20,000, and yet in the three years on their financial statements they have made neither loss nor profit. Now, to say that that does not make a difference in your taxation, and to say it does not make a difference to your shareholders and

that it does not make a difference in tariff protection, and all that sort of thing is perfectly absurd. On the three years they had made an average profit of $13,000 a year, but by this manipulation of inventory, quite simply and very nicely, no one would know they had made anything.

MR. BRUNEAU: I think what Mr. Campbell said was the first year in which the inventory discount was taken that it made the difference, and it means postponing --

MR. McRUER: Makes a difference in every single year that the discounts vary all through, every time you can manipulate and change that as I have just done it on that sheet of paper for three years, and you can go on manipulating that for a long period of years

MR. BRUNEAU: If you do not increase your discount in the next year you cannot make the same profit over and over again each year unless you take a fresh discount, or unless your inventory goes up.

MR. McRUER: There are all those elements; you change the discount and you have changed the amount of the inventory. You can keep the same discount all the way through and accomplish the same result by inflating and contracting your inventory toward the end of the year.

MR. BRUNEAU: But there has to be a change of that sort in order to make the loss, for instance, to the government occur in more than one year.

MR. McRUER: Of course you change it. If you have

a profitable year and you can catch up --

MR. BRUNEAU: It goes back and forward.

MR. McRUER: When you have a loss you can absorb your profits and the government will get nothing on their taxation all the way through.

MR. BRUNEAU: The only thing, that is not what was, in fact, done in our case.

MR. McRUER: Well, you have got a bill at the present time to wrestle with as to whether, in fact, it was done.

MR. BRUNEAU: That bill is significant because it is $195,000 and $67,000 interest and the discounts are two million--

THE COMMISSIONER: For what period?

MR. BRUNEAU: 1921 to 1936, an average of about $13,000 a year, or $11,000 a year, and the discounts during that period, the amount of the discounts is about $2,027,000, while 15% of that would be about $300,000, and the government bill is only $262,000 based on their method.

THE COMMISSIONER: What is the bill for the earlier period?

MR. BRUNEAU: $177,000, but that is down to 1920.

THE COMMISSIONER: 1915 to 1920.

MR. BRUNEAU: Yes, my lord.

MR. McRUER: Now, I cannot for the life of me follow my friend, Mr. Campbell, or my friend, Mr. Bruneau in the question of likening a business of this sort to a lawyer's business, or a doctor's business, where they have no stock in trade.

THE COMMISSIONER: Nor an insurance business; I found it very hard yesterday to try and adapt one to the other in my mind.

MR. McRUER: My friend says "oh well, it means you are estimating your profits, you are taxing profits before they are realized". It is nothing of the kind. In my own example on the first year of business when they got their inventory and sold it their profits were realized, and you determine the amount of its profits by valuing the goods they bought and comparing that with the money received and the difference will be the profit for the year, and this method of taking these discounts makes it perfectly clear that you can hide your profits in that way. Now, in respect to the other matter, my lord, we have that cleared up as to the goods in process, from what the discounts were taken. That is at page 12104 of Mr. Brown's evidence, and it reads as follows, commencing at line 30:

"Q. That is the price you worked on to work out what the reserve was for that year?

A. 12.30 and inventory was taken at 7.80. Then we come along to the goods in process. They were taken, put through at cost and then discounted 25%, so that the net figure was extended out and unfinished goods were taken at the list, what they call the list price, less 25% discount."

THE COMMISSIONER: What does he mean by unfinished goods? Does he mean the same thing as goods

in process? I suppose he means goods off the loom.

MR. McRUER: Yes.

THE COMMISSIONER: Insofar as goods in process were concerned they were put in at cost less 25%?

MR. McRUER: Yes, that was in 1916 and then in 1917 they were 40% and 1918 40%.

THE COMMISSIONER: Unfinished goods off the loom were on what basis?

MR. McRUER: List price less 25% in 1916, and then went up higher. Then, just to finish this quotation, my lord --

"Q. Well then, after working them out. They had worked them out on that basis to get the figure that was put in the balance sheet? A. Yes, the net figure was the balance sheet."

THE COMMISSIONER: Well, we will adjourn for a few minutes.

-- The Commission adjourned for a short recess.

(Page 18705 follows)

-- On resuming after recess:

MR. McRUER: Now, one other word or two in respect to these inventory discounts generally. My friend Mr. Campbell said that the discounts were what the Managementthought were necessary. Now, I submit, my lord, that is not a fair interpretation of what took place. How the management could think that a discount of 65% was necessary on finished goods that were ready to go on the market in the year 1935 is inconceivable. Now, as to the disclosure or alleged disclosure to the Government and the proper authorities, I am going to have something to say about those letters, but I want to read some evidence that was given at a preliminary investigation of a Special Committee appointed in 1919 by the Parliament of Canada and it is contained in the Appendix to the Journals of the House, Part 2, for the year 1919, Volume 55, at page 485. Mr. Dawson was called as a witness and was giving evidence and evidence had been given by the officials of the Dominion Textile Company a little earlier where-in they disclosed to the Committee the raw cotton reserve which amounted to a million dollars at that time. The other methods of valuing the inventory was not gone into but this reserve of a million dollars had been disclosed to the Committee, and Mr. Dawson and Mr.Bruce were the witnesses before the Committee at this time. This is a question by Mr. Douglas:

"Q. Have you a reserve to protect you against

the raw cotton market over and above your nominal surplus?

MR. DAWSON: We have a reserve there that we accumulated for years that we kept for possible losses, $90,000."

THE COMMISSIONER: Pardon me, did he have reference to an ear-mark reserve?

MR. McRUER: Well, that is the way he put it: "We have a reserve there that we accumulated for years that we kept for possible losses, $90,000.

Q. Is it only $90,000? A. Yes. There is another reserve of nearly $100,000, and payable against losses in reduction of prices and allowances and so forth."

THE COMMISSIONER: "Reduction of prices," he was talking there of manufactured goods possibly.

MR. McRUER: Possibly. Mr. Howson suggests it is against goods that had been sold.

"Q. That is shown in your statement as a contingency fund placed on one side. Only $90,000 in one case, and $100,000 in another?

A. Yes."

MR. BRUNEAU: Those are the reserves on the account--

MR. McRUER: They are shown in the Statement.

THE COMMISSIONER: I understand that the statement at that time at least did show an actual sum of $90,000 set aside for reserves against raw cotton.

MR. McRUER: That is an entirely separate matter

from this other matter.

THE COMMISSIONER: Well, apparently.

MR. McRUER: It has nothing to do with it at all.

THE COMMISSIONER: Apparently they were doing both-they were valuing what they had on hand on a basis of what we know of 9 cents and also putting aside $90,000.

MR. McRUER: And $100,000.

THE COMMISSIONER: I am talking of raw cotton, $90,000 of raw cotton. Mr. Whiteley shows me that their general statement for that year has an item of $90,000 for bad debts, but that is the only $90,000 there is. Pardon me, but what time is this?

MR. McRUER: This was ---

THE COMMISSIONER: I think you said February, I am not sure.

MR. McRUER: This was on June 19th, 1919.

THE COMMISSIONER: Then the Company's year was over and this statement was out. Well, this statement shows a reserve for bad debts of $90,000 but does not show anything else.

MR. McRUER: Well, there is a little more evidence in reference to it, my lord.

"By Mr. Nesbitt:

Q. $100,000 for what? A. It is accumulated profits for some years, and we set it aside.

By Mr. Douglas:

Q. This is over andabove the ordinary reserve?

A. For depreciation, yes.

Q. Over and above the amount to cover losses on raw material? A. Yes.

Q. That is a secret reserve? A. We do not show that to the public."

THE COMMISSIONER: Oh, it is not to be shown.

MR. McRUER: "Q. It only amounts to $190,000, all told? A. Yes.

Q. You are not as strong as the Dominion Textile that way? A. We have never been able to."

And in 1919 the undervaluation of the inventory amounted to $1,590,852.16.

MR. BRUNEAU: But that figure was only made up this year.

MR. McRUER: I know but the discounts taken in 1919 were 40 and 40 and that raw cotton it was taken in at 8.55¢ a pound and on Mr. Brown's calculation the valuation should have been 30.5.

MR. BRUNEAU: This evidence is that nobody ever made up these statements until Mr. Brown made them up.

MR. McRUER: They knew perfectly well when this book was being written down, the inventory was written down for the year, the book was there and they could have shown it to the Committee if they wanted to clear this matter up that the Committee was asking them specifically about. They could not have helped but have known.

THE COMMISSIONER: Yes, if the evidence stopped there it was certainly misleading.

MR. McRUER: I want to deal, my lord, with these letters, Exhibit 895.

THE COMMISSIONER: What page? It is page 376.

MR. McRUER: Yes. To understand this letter one has to read it with what had gone on before the letter was written and the return to which it refers. So that we must take them in their chronological order. The Return was put in and it is this Exhibit 1062 - it has to be supplied to the file yet but I am reading from Mr. Bruneau's copy - the Return is dated 24th June, 1921, and is for the year ending 31st March, 1920, and the certificate in regard to inventory is right on the face of it and that is the first thing that the official would have before them. Now, this certificate reads as follows:

> "I, Alexander Bruce, the Secretary-Treasurer of Canadian Cottons Limited, do hereby certify that I have made a careful investigation of the prices on which the inventory of merchandise and materials on hand was calculated for the accounting period which ended on 31st March, 1920, and I make the following declarstion knowing same to be true and correct, viz;
> Here state fully the basis on which the inventory was taken at the beginning and end of the period. If any allowance was made for shrinkage or decline in values, the amount must be stated."

Now, then, opposite that is, "Cost less depreciation deducted as per attached statements to bring amount to market value within 12 months of the date of inventory.... see final statement of Profit and Loss."

All right, now it says that the inventory is taken at cost less depreciation deducted as per attached statement and refers to the profit and loss. All right, well, there is a statement attached and the statement attached is headed "Statement of Profits for year ending 31st March, 1920. Profit and Loss as shown by Profit and Loss Account, $1,838,443.29." Now, have we the Profit and Loss Account for 1920? Now, when we go to the printed profit and Loss Account, which is Exhibit 340, and which Mr. Elliott said accompanied all these statements we have, the profit shown in the Profit and Loss Account as $1,838,443.29. Now, that was arrived at after the inventory was valued and valued on the basis of these deductions and the raw cotton for that year according to Mr. Brown's statement the valuation ought to have been 40.14, and it was valued at 8 with ---

MR. BRUNEAU: It was valued at more than 8 that year. You will see it right there in the inventory, raw cotton, 1,600,000 pounds in the --

MR. McRUER: Could you wait until I finish a sentence? "...with the exception that the number of pounds that Mr. Bruneau mentioned and are mentioned in this letter were taken in at 40.14, part of it was taken in at that but that was the basis on which it was valued before the profits were arrived at. Then the statement goes on and claims certain deductions all the way through it and then "Inventory over valuation, raw cotton 5,823,000 pounds, 3¢."

THE COMMISSIONER: Inventory what?

MR. McRUER: Inventory over valuation. That is the statement that accompanies this return - "Inventory over valuation, raw cotton, 5,823,000 pounds, 3¢." Now, "Raw cotton 1,670,464 pounds, 30¢."

THE COMMISSIONER: It is here as 404 pounds. In your copy of the letter that should be 464?

MR. McRUER: Yes, that is a mistake in copying. In the letter it is 464. So that in respect to the 5,823,000 pounds there is no disclosure in this statement that it was taken into inventory at less than cost price. It says it is taken into inventory at cost and that these deductions are the ones that were overvalued by 3¢ a pound. Now, having ---

THE COMMISSIONER: Well, that is what struck me yesterday discussing this with Mr. Bruneau that whoever read this letter would read it in the light and upon the face of Mr. Bruce's certificate.

MR. McRUER: Then the manufactured cotton is shown in this. It is stated to be valued $477,050, should be $328,978. Now, those manufactured goods in that year were the subject of this discount of 40% at that time and to arrive at the $477,000, then they say that is over-valuation and we should have it $328,000.

THE COMMISSIONER: The $477,000 was the result of the 40% discount.

MR. McRUER: Yes.

THE COMMISSIONER: In other words, it was 60% of their list price?

MR. McRUER: Yes, my lord.

THE COMMISSIONER: The letter says, though, that this cloth on hand was taken into stock at current values.

MR. McRUER: I am coming to that letter in a moment because there are one or two other letters that precede it. I am taking first what the departmental official had before him, certificate sworn to. He reads this letter in the light of the information that is before him and there is a certificate that when they arrive at this Profit and Loss Statement these things were over-valued and we are making a deduction of these amounts and they make it up to $823,000.20 that they should be allowed for after a deduction of the profit shown in the Profit and Loss Statement of $1,838,000 in respect to over-valuation of inventory when it was taken into the Profit and Loss Statement to arrive at that figure. Then there are certain other adjustments shown on this sheet of previous claims for over-valuation of inventory. There had been a claim of $86,755, which the Department did not allow and wrote back and there had been a claim of $230,000 which the Department did not allow but they did allow $67,250, and that was without the knowledge of these discounts having been already taken. Now, that is on the 24th of June, 1921.

In Exhibit 895 we have the correspondence that follows in respect to this and a letter that appears

here dated 17th December, 1920, gives something of a preface to this correspondence because it shows the attitude of mind of the Department and how carefully the Department were scrutinizing these things and how they were disinclined to allow any reductions in inventory, as Mr. Elliott stated, because he said at that time inventory values were rising and we were not allowing reserves for things they were not going to need, they had to show us that they needed them. Now, this letter dated 17th of December, 1920, deals with the application for the previous allowance of - well, it was $230,000 in the one year and $63,000 in a previous year and it reads as follows:

It is addressed to Mr. Dawson and written by Mr. John Miller who was an agent employed by Canadian Cottons to adjust their taxation with the Department:

"Dear Mr. Dawson:

As you might gather from our telephone conversation yesterday afternoon, the final discussion regarding your Company's assessment was both long and difficult. After going over matters fully with Mr. McLaughlin we came to an agreement subject to Mr. Breadner agreeing, and of course to your confirmation. The difference was so large that Mr. Breadner had to be called in and at first he was most unwilling to concede the points. I had quite a difficult time with him, - he is a good deal worried just now - and for a time I feared

that I was not going to get him to agree. But after pointing out that I had not pressed for several allowances - the Bad Debt Reserve for instance - and also that for the previous period certain charges for renewals had been made in full, and that the Common Stock was valued at a low figure Mr. Breadner at last agreed to accept the statement wh which Mr. McLaughlin and I had already agreed on tentatively."

Now, the importance of that statement is not in reference to this but in reference to something else and that is, our claim that there is $9,000,000 of profit really secreted in plant by charging to operation renewals and replacements that should be charged to capital. Now, you see if they did that prior to the taxation statutes no one could quarrel with them, but it had the effect of increasing the amount of the money invested in the business, the amount of capital invested in the business and under the Business profits War Tax Act they were entitled to 7% exemption on capital investment in the business and if their capital on their books was not truly reflected but they had charged to operations and to repairs capital expenditures, their capital should be increased in order to get at the true amount invested in the business for the purpose of calculating the 7% reduction.

Now, that was the argument and he says:

"...and also that for the previous period certain charges for renewals had been made in full, and that the common stock was valued at a low figure. Mr. Breadner at last agreed to accept the statement which Mr. McLaughlin and I had already agreed on tentatively. Thereafter I got you on the 'phone and on your agreeing also, the tax was formally settled - all but the payment. Mr. McLaughlin in view of the reduction of the amount was rather anxious that there should be a substantial payment in January, and I promised to draw your attention to this point in writing. I believe however that you gave him some idea of what you propose to do while you were talking to him.

I think that taking everything into consideration, we have reason to be satisfied with the final result, which is to reduce the ~~sett~~ assessment by $283,453.08. This is arrived at by the allowance as deductions from profit of

Allowed as Repairs,	$289,584.00
Allowance for depreciation of Inventory still on hand	67,250.00
Insurance Premiums taken as deferred Salaries or Wages,	20,970.00
	$377,804.00"

So that your lordship will see that after this scrutiny that they had given this during the year 1920 they, instead of allowing over $300,000 as claimed or $230,000 for the year 1920 in particular, they allowed only $67,000.

THE COMMISSIONER: That letter you just read is from whom?

MR. McRUER: That is from John Miller to Dawson and Miller was the agent appointed by Canadian Cottons to adjust their income tax matter. That is for the year ended 31st March 1919.

Then we come to the letter of December 17th, 1921, which is copied in my Brief, and it says:

"Re CANADIAN COTTONS COMPANY'S INCOME TAX RETURN TO MARCH 31st, 1930."

Now, that is the one I just had in my hand.

"I beg to confirm figures submitted to the Department in sheet annexed to Return in the matter of reduction of Inventory as follows:-"

Now, this letter is confirming this sheet which is attached as showing that the inventory was valued at cost less the deductions that are claimed in this sheet. So when an agent picks up this letter and reads it and says I am confirming those figures and there they are - 5,823,000 lbs. carried from previous year at approximately 9¢ per pound, which is stated to be the cost in this, then how could he be said to have conjectured that it was not true. How could he say that there is a disclosure there when we arrive at the figure of 9¢, we had written it down from 41¢ in respect of that?

THE COMMISSIONER: By the way, who was the Secretary of the Company?

MR. McRUER: Mr. Bruce.

THE COMMISSIONER: We will adjourn now.

-- The Commission adjourned at 12.30 to resume 2.30P.M.

-- The Commission resumed at 2.30 p.m.

Mr. McRUER: There is only one word more I want to say in reference to the letter of December 17, 1921, and it is this. It was written a year and nine months after the close of the year we have been dealing with. If the departmental officials had with them the statement made as of the end of the year, March 31, 1920, and that indicated that the basis of the inventory was cost less the deduction shown in the statement, a departmental official could be hardly expected to recollect, together with the other duties he had to perform, that cotton was a good deal higher a year and a half previous.

The COMMISSIONER: That is reasonable. Putting myself as far as I can in the place of such an official, I fancy that a paid official of a company like the secretary could have no reason for sending in an improper valuation and making improper returns. One could readily understand an individual doing it in his own case, but I, for one, would not be inclined to suspect a paid official of a large company doing it for the company.

Mr. BRUNEAU: Perhaps we should not have any suspicions at all, My Lord.

The COMMISSIONER: Perhaps we should not. In any event there are the figures. There is the market price of raw cotton, and there are the prices actually paid and the prices in the inventory, and there is a great discrepancy between the two. There is a return showing that these things are put in at cost when they are not. These are things that one would not expect a paid official of a large corporation to do.

Mr. McRUER: I wish to say one word in reference to Mr. Bruneau's criticism of our statement that appears at page 185 of my brief with regard to the suggestion that I make there that a large portion of the common stock of Canadian Cottons was originally issued as bonus stock and that since that time that has been carried on through the corporate structure of the company. In the brief I say:

> "Mr. Howson, from a study of the minute book of the Canada Cotton Manufacturing Company, Limited, has given evidence that there appears to have been bonus stock issued in respect to the acquisition of this company of $250,000. If bonus stock was issued in respect to this company, it is not improbable that bonus stock was issued in the acquisition of the other companies."

When one bears in mind the fact that they are brought together in a sort of merger of that sort, it is not unreasonable that the terms on which they come together are the same.

Mr. Bruneau suggests that because he finds, going back into the minute book, that the new company assumed the liabilities that were outstanding of the other companies, that accounts for the difference between the assets of the company and the amount of stock that was issued. For instance, the fixed assets of the Canada Cotton Manufacturing Company, Limited, appear in the records to be $800,000.

The COMMISSIONER: The assets of what ?

Mr. McRUER: Of the Canada Cotton Manufacturing Company, the one going into the merger.

The COMMISSIONER: That is the old company.

Mr. McRUER: One of the old companies that went into the merger in 1892. There were seven companies that went into the merger and this is the only one concerning which we have records. The fixed assets of that company were shown to be $800,000. There is $865,000 less $65,000 applied to current assets. The capital stock that was issued was $1,050,000. In regard to the liabilities that were assumed, as against the liabilities there were current assets; and the current assets, after being shown in the balance sheet, appeared to be $154,000 more than the liabilities. In arriving at the purchase price that was taken into account. So that there is nothing in the suggestion that because they had liabilities, that accounted for the difference in the fixed assets in the stock that was issued. It comes back, therefore, to the conclusion that it was bonus stock.

The COMMISSIONER: To whom was it issued--to a restricted class of people ?

Mr. McRUER: We have not the details of that at all.

The COMMISSIONER: If it was sold to the public it might be watered stock but not bonus stock. Did the company issue bonds or preferred stock or was it limited in sale to the existing shareholders of the new company ? In what respect was it bonus stock.

Mr. HOWSON: In this particular case the shareholders of the old company got $400,000 of the bonds of the new company, $100,000 in notes spread over a couple of years, and $65,000 in cash, which was in

settlement of current liabilities, and the new company assumed a bond issue of $300,000 that was outstanding.

The COMMISSIONER: Bonus stock is stock that is given away, usually accompanying something else. Some one buys a preferred share and you give him so many shares as a bonus.

Mr. HOWSON: We have no information with regard to the distribution of the stock.

The COMMISSIONER: If it was created out of nothing and issued and sold to the public it would be watered stock; it would not be bonus.

Mr. McRUER: To that extent it is excess at any rate of the assets, but we have not the details of that.

The COMMISSIONER: I only raised the question because you were calling it a bonus.

Mr. McRUER: I wish now to deal with another matter that arises out of the letter of Mr. Dawson. In this regard I am between two fires, so to speak. I want to deal with this before Mr. Bruneau goes away, and on the other hand I want to deal with it as it affects certain matters with respect to my reply to other counsel.

The COMMISSIONER: I may have the pleasure of hearing you twice.

Mr. McRUER: I hope not. Perhaps Your Lordship will follow the letter as I read it; It contains some calculations. I shall have something more to say in connection with this to-morrow.

The customs tariff may be considered and in fact always is considered from two points of view--one, a

revenue, an indirect tax for the purpose of raising revenue, which incidentally have a certain protective effect, but which is not designed for the purpose of protection. It is designed for the purpose of producing revenue.

The COMMISSIONER: That is to say, it is not designed to keep goods out but to have them come in and put money into the coffers of the government ?

Mr. Mc KUER: Exactly. From the other point of view a customs tariff is designed for the purpose of protecting industry, Canadian industry in this case, in so far as in the judgment of parliament it may be economically beneficial to the nation to protect Canadian industry. There may be some industries which it may be economically beneficial to the nation to protect and perhaps there are some industries or portions of an industry or portions of production which it is not economically beneficial to the nation as a whole to have protected.

I am going to deal with that on a very much broader basis to-morrow or the day after because I shall have some additional data prepared in reply to some things that have been said by my friends, Mr. Heward and Mr. Kellock. However, dealing for the moment with the other aspect of the matter, assuming for the moment that the textile industry is one of those which it is economically beneficial to Canada to protect, the question arises what measure of protection should it have, and what measure of protection does it want.

It has been put forward by the industry here from time to time, not in this inquiry only, but over

a long period of years, that the protective tariff they have had in the past has been insufficient to do justice to the industry. We have on file a letter--Exhibit 492--from Mr. Dawson to Mr. W. H. Moore, chairman on the advisory board on tariff and taxation dated November 22, 1927, which sets out on behalf of Canadian Cottons Limited the protection which Mr. Dawson considered at that time that this industry ought to have as against the United States, and the reasons for that protection.

I wish to discuss this letter for a little while, because in the light of ten years experience, we shall see that most of the reasons which he put forward at that time have disappeared, and it makes quite an interesting study from the point of view of the protected industry, looking at the question of protection to see how these reasons that were put forward ten years ago have disappeared with the passing of time. And we have not had any reasons put forward to replace these. I shall take the time to read the opening parts of the letter before I come to the tariff.

"Canadian Cottons Limited, which company I am here to represent, has wished for some time for the opportunity this occasion affords to bring before the advisory board on tariff and taxation some of the problems that it has had to face to keep its plants in operation.

Before outlining these problems it might be well to give a brief history of this company, which gives a livelihood to nearly four thousand men and women; maintaining the life of

"several important towns in Ontario and New Brunswick, and at the same time supplying the consuming public with a line of wearing apparel equal in quality and appearance to similar goods made in any part of the world.

Canadian Cottons, Limited, is a combination of several companies that were unsuccessful while running as separate units, and that came together prior to 1910 in the hope that under one management, and by avoiding overlapping and duplication of styles and designs, they might be able to secure a measure of success.

Canadian Cottons, Limited, at the present time therefore owns or controls the following mills:-

St. John, N.B. - 2 mills
Marysville, N.B. - 1 mill
Milltown, N.B. - 1 mill
Cornwall, Ont. - 3 mills
Hamilton, Ont. - 1 mill

The product of these mills is almost exclusively confined to coloured woven fabrics, such as dress ginghams and flannelettes, denims, shirtings, cottonades and tickings, and has one mill engaged in the making of cotton blankets.

Because of competition coming largely from Great Britain on fine goods, such as dress ginghams and flannelettes, and for the most part from the southern United States on heavy goods such as denims, shirtings, etc., the mills have been able to secure only enough business to run at about 75 per cent of capacity during recent years.

Naturally it will be asked why cotton goods

"made in foreign countries can be sold in Canada when the mills in this country are favoured with what might be considered by many as a reasonable measure of protection. The answer is not far to seek. The reason why the Canadian cotton manufacturer needs protection is the identical reason revealed in the correspondence exchanged between France and the United States in the recent controversy between those countries in regard to tariff matters. Let me quote from the Washington letter to Paris as follows:-

'It is the understanding of the American government that the principles on which the French government fixes its tariff are those expressed in 1891 by Monsieur Meline in his report on March 3rd, to the Chamber of Deputies. Monsieur Meline said at that time:

"The producer demands, as is his right, that account be taken of the heavy costs which burden his labour and of the disadvantages to which he should not be subjected. In the formation of a customs tariff, he asks that the legislamture measure exactly the differential which separates him from his foreign competitor, and that the tariff rate inscribed in the act be the representation of this differential."'"

I shall have something to say about this when I come to the change in the British treaty which has taken place recently. The statement here does not take into consideration the general economic welfare of the country; it takes into consideration only the differential which separates the Canadian from his foreign competitors.

The COMMISSIONER: I suppose it assumes that it is in the country's interest that he should continue to manufacture.

Mr. McRUER: Yes.

The COMMISSIONER: The measure of protection that we should give him should be that differential you mentioned, between his cost of manufacture and the lower cost of his competitors.

Mr. McRUER: Yes; but the maze of difficulties we get into if we adopt that basis is this. As soon as you begin to measure the differential it is thrown out of kilter by new mills coming into the field, and it is an impossible factor to take definitely into consideration.

The COMMISSIONER: Is not that the same principle embodied in the first treaty ?

Mr. McRUER: Yes. I am a little in advance of myself because I am going to discuss the basic change in the treaty that has taken place and what apparently are the reasons for it. This letter goes on:

> "Your commission believed this demand proper, and it is upon this basis, that it has tried to perform the difficult work which you have entrusted to it. It has searched for the exact rate which seemed indispensable for each branch

"of industry and agriculture to assure its existence and free development. It has considered that to give to the tariff a real value and to give courage and confidence to French production, it is important, above all, to fix the minimum rate which will be assured to them and below which in future there will be no concessions. It is upon this fundamental principle that our minimum tariff policy is based; it is this that determines its real character.'

This theory was restated in 1906 by Monsieur Morel, who said:

'We have been entirely guided by the fundamental rules laid down by the founders of the customs regime in 1892 ....'

'Your commission has tried to measure exactly the differences which exist between the French producer and his foreign competitor by reason of the costs which burden his work and the disadvantages which exist through no fault of his, and it has placed in the minimum tariff the figure representing this difference.'

'It is precisely on this theory of protection that the rates of the duty of the American Tariff Law rest, and it is believed that a tariff designed for the protection of producers and the raising of revenue is not open to objection by other governments when it is applied equally to all.'

On this basis all that Canadian Cottons, Limited can justly ask is that sufficient protection be granted the industry to provide for

"the differential which separates it from its foreign competitor.

We recently made a study of what these differentials really are, and the results are as follows:

Memorandum showing cost of producing cotton goods in Canada as compared with the southern United States, and amount of tariff protection required in consequence.

The following figures are based on net sales value of production for twelve months ending March 1927, amounting to $8,174,871, which is taken as representing 132 1-2 per cent of the value in the United States, making the United States, value, say, $6,169,713.

To begin with, from this statement it would appear that the Canadian consumer would pay $2,000,000 more for the Canadian product than the American. If Your Lordship will look at page 3 of the letter you will find a table set up. Mr. Dawson proceeds then to build up the differential which he mentions as being the difference in the cost of production between Canada and the United States at the present time. In the first place, with respect to Canada he says:

"Canada	Southern States	Annual charge estimated as being equivalent to percentages as under of the U.S. value of our production
1. Buildings must be of much more substantial construction to withstand extreme variations in climate and heavy snow loads and also require heating equipment. Additional cost on account of above estimated by Messrs. Lockwood, Greene & Company of Boston, the largest firm of textile mill architects and engineers in America.	Lighter construction and no heating equipment.	3.67%

The COMMISSIONER: That means that the United States building cost 100 and the Canadian 103.67.

Mr. McRUER: No.

The COMMISSIONER: That would be very modest.

Mr. McRUER: The calculation here is that on account of the difference in cost of building it costs us 3.67 cents in the dollar.

The COMMISSIONER: That is the same thing.

Mr. McRUER: It is on the dollar's worth of goods.

The COMMISSIONER: He is breaking up the differential into its components.

Mr. McRUER: Yes.

The COMMISSIONER: And he attributes to the building factor 3.67 ?

Mr. McRUER: Yes. And I want to point out in that regard that this is a comparison between the southern states and Canada, whereas a comparison between the northern states and Canada would be more to the point. However, I will deal with it as presented here. The second item is the duty. He says that duty has been paid on all machinery, so far as Canada is concerned. The original equipment under the old tariff paid twenty-five per cent, the present tariff being ten per cent. Much equipment, it is said, was added during the war years when the war tax of 7 1-2 per cent was imposed, and much has paid the import sales tax now of 4 per cent, taken at 10 per cent on to-day's depreciated values. The United States--that is the southern states--pay none of these charges. The annual charge estimated as being equivalent to percentages is 3.07 per cent.

Now it seems to me rather far-fetched to say that on sales of ten or eleven millions a year they need 3.07 per cent every year in order to make up for the

duty that the company has paid on its machinery.

The COMMISSIONER: Their own figure for the twelve months ended March 31, 1927, is $8,174,000.

Mr. McRUER: Yes. So that it will be seen that it would be $824,000 in one year.

(18732 follows)

MR. McRUER: Alright, 3% of the six million. The total machinery before depreciation -- well, properties, mills, plants, they are in here after depreciation, $8,000,000. Well, you are going to deduct -- if your machinery, if it was 10%; supposing the whole of their machinery cost them $10,000,000. 10% would be $1,000,000, and then take this off, 250,000 off of the life of the machinery of 30 or 40 years.

THE COMMISSIONER: Each year.

MR. McRUER: Off their sales so that figure seems pretty unsound. Then we come to --

"3. Directly paid Duty and Import Sales Tax on Supplies, Starch, Coal, Repair and Renewal Parts, etc., to the extent of over $75,000 annually. (Duties paid indirectly not estimated)".

And in the United States they say they pay none of those, and that is 1.21%. Now, 1.21% of eight million would be $80,000.

THE COMMISSIONER: On six million it would be $60,000.

MR. McRUER: Yes, on six million $60,000.

THE COMMISSIONER: $72,000, rather.

MR. McRUER: "Much coal required for heating", and they do not put anything in for that at all.

THE COMMISSIONER: Yes, .65%.

MR. McRUER: Yes, that is right. Then,

"5. Volume of Production materially decreased owing to variety of styles in our limited market. Very thorough and careful estimates of comparative

"costs on this account were compiled at one of our largest mills".

Now, what they put in for that, that is, the difference in the volume of production in Canada and the United States, they say they require a protection of 3.61%. Now, that is an important figure because it may be one of the few figures that have not been eliminated in the last ten years because there is a consideration in regard to that. Now then,

"6. Larger staff of operatives required on account of variety of product estimated as was Item No. 5",

And they say that is not required in the Southern States. Now, for some reason or another they estimate 4.41% because they say they require a larger staff of operatives here than in the United States. Well, I don't know that we have seen anything in this Commission that suggests -- because ~~as~~ Mr. Howson has just drawn my attention to the fact that five and six are on the same principle. It is a sort of duplication because if your volume of production is increased and it is more economical to produce on a large volume of production then this item of number six is the same thing.

THE COMMISSIONER: They do appear to me to overlap at least in part. I suppose the word "operatives" there means workmen, and the wages.

MR. McRUER: Yes, wages for the workmen. Then we come to seven.

"7. Additional machinery is required on account

"of diversified nature of product, part of which must stand idle all the time, estimated as was Item #5."

Well, that is again a repetition of the same thing. That has to do with the volume of production, and a comparison of the volume of production.

THE COMMISSIONER: There I see 1.61 is the allowance.

MR. McRUER: 1.61.

THE COMMISSIONER: Under item six it is 4.41.

MR. McRUER: Yes, my lord, and those three amount to --

MR. BRUNEAU: 9.83.

MR. McRUER: 9.83%. Now, we come to the wages.

"8. Wages willx average at least 30% higher than present rates in certain of the Southern States".

And with regard to the Southern States it has "lower wages", and they ask for 10.19% protection against the low wages of the United States. Now, we have got a complete reversal in regard to that between Canada and the United States, and we have --

THE COMMISSIONER: He is talking of the Southhern States.

MR. McRUER: Yes, and we have -- are the Southern States now on the same basis, Mr. Whiteley?

SECRETARY WHITELEY: They are slightly higher.

THE COMMISSIONER: They are still higher than Canada. They were put on a higher level by the N.R.A. and we are told most of them have kept to that level.

MR. McRUER: Yes, that is true, The north are considerably higher. I am sure of that, and the south are a little higher. That is my recollection. Is that correct, Mr. Beauregard?

MR. BEAUREGARD: Yes.

THE COMMISSIONER: Yes, I think so.

MR. McRUER: So that we have the longer hours of labour in Canada and lower wages. So that item of 10.19 goes out of the picture altogether. Then, the next is:

"9. Our mills operating 50 hours weekly. "Southern Mills largely operate night and day shifts, 55 to 60 hours each - say 110 hours each - say 110 hours weekly - resulting in 120% additional production without additional buildings or machinery."

There you get again a duplication of the volume of Production argument, but, as a matter of fact, that is completely wiped out now because the mills in the south operate on a 44 hour week as against the operation of a 55-hour week here.

THE COMMISSIONER: Just a minute; yes, the mills in the South operate in two shifts. Is it 48 hours?

SECRETARY WHITLEY: Under the Code it is 40 hours. If they have held to the code they would have two shifts of 40 hours.

THE COMMISSIONER: That is an 80-hour week. What is the present Canadian rate?

SECRETARY WHITLEY: In Ontario it is still at the same rate as he gives there, 50 hours a week, and

Quebec it is 55, but they also operate some night shifts on occasion.

THE COMMISSIONER: So it is fair to say our industry operates 50 hours a week.

SECRETARY WHITELEY: In Ontario.

THE COMMISSIONER: In Ontario.

SECRETARY WHITELEY: Except when they operate night shifts. Empire Cottons would run to 110.

THE COMMISSIONER: What about Quebec?

SECRETARY WHITELEY: In Quebec Montreal Cottons is now running 24 hours at the present time.

THE COMMISSIONER: Per day.

SECRETARY WHITELEY: Per day, 6 days a week.

THE COMMISSIONER: The whole of Saturday?

SECRETARY WHITELEY: According to the item in the Press.

MR. BEAUREGARD: Till five o'clock on Saturday.

THE COMMISSIONER: 144 hours.

MR. BEAUREGARD: Up to 5 o'clock on Saturday.

THE COMMISSIONER: Up to 5 o'clock on Saturday.

MR. McRUER: So that your lordship will see that---

THE COMMISSIONER: Now, I see this letter allows 6.65% for that differential.

MR. McRUER: Your lordship will see on the last two items there is 16.84%.

THE COMMISSIONER: On what?

MR. McRUER: On the last two items, items Nos.8 and 9.

THE COMMISSIONER: Yes, wages and hours of operation.

MR. McRUER: 16.84%; now, those have been

wiped out by changed conditions. So allowing every other item that is included, and we see how they have duplicated and built up and repeated all along with the items that are included on their statement as built up here, that the required tariff protection, it would not need to be more than 8.23% between Canada and the United States at the present time instead of these ad valorem duties and specific duties.

THE COMMISSIONER: Are you taking off only those two items?

MR. McRUER: I commence by taking those off only.

THE COMMISSIONER: You take them out of 55.07?

MR. McRUER: Yes.

THE COMMISSIONER: That leaves 18.

MR. McRUER: 18.23%.

THE COMMISSIONER: I thought you said 8?

MR. McRUER: No, 18, but we see how many of the other items that are over-stated that are left in such as the item for duty on machinery of 3.07%

THE COMMISSIONER: You will soon have this industry where they will have to bonus the Government to be allowed to continue.

MR. McRUER: I am only taking their own calculations of what they say and put forward to the Chairman of the Tariff Board of what they needed, and, as a matter of fact, I don't think they need any protection between Canada and the United States

under the present methods of operation unless it is on the first item of 3.6% on account of the greater volume of production.

THE COMMISSIONER: The first item is he greater cost of buildings.

MR. McRUER: I mean the greater volume of production.

THE COMMISSIONER: No. 5.

MR. McRUER: It is 3.61%; it is item No. 5, because we find now that as far as their cost of buildings is concerned, how they have been written down and taken care of out of the consumer's dollar, and we do not need to give that very much consideration nor do we need to give consideration to the customs duties that may have been paid on machinery that may have been imported some years ago. So that when we face the situation as far as the United States are concerned on the calculations, on the basis of conditions as they are to-day, that there is no justification whatever on any grounds, except on the ground of prohibition of trading in textiles, trading in textiles with the United States, for these high ad valorem and specific duties that are shown in Mr. Hooper's exhibits. Now then, the letter goes on to deal with the situation between Canada and Great Britain:

"The following figures are based on net sales value of production for 12 months ending March 1927, amounting to $8,174,871, which is

taken as representing 120¼% of the value in Great Britain, making the Great Britain value $6,798,230." Your Lordship will see there that the value of the goods at that time was apparently greater in Great Britain than it was in the Southern States. It was valued at $6,169,000 for the States and $6,798,000 for Great Britain.

MR. BRUNEAU: How do they get at that; is that just the tariff added?

THE COMMISSIONER: No, that means the amount; he says the value. Now, what does he mean by the value? Does he mean the selling price or does he mean the cost of producing the article?

MR. McNUER: I would take it as the cost of producing. Well, he says, "Net sales value of production."

THE COMMISSIONER: Yes, that is true.

MR. McNUER: I think it is the price they have to sell at as compared with the price you could buy it in Great Britain.

THE COMMISSIONER: It is a rather strange way he puts it. He says, "The following digures are based on net sales value of production;" what does that mean? Can Mr. Howson tell us that?

MR. HOWSON: I think that would be the sale price.

THE COMMISSIONER: In that case the sale price. He then, I presume, means that during those 12 months his company sold goods to that value.

MR. HOWSON: Yes.

THE COMMISSIONER: And that the same quantity and kind of goods in the United States would have brought

$6,159,000.

MR. HOWSON: Yes.

THE COMMISSIONER: And in Great Britain, $6,798,230; that is what he must mean.

MR. HOWSON: I would think so, sir.

THE COMMISSIONER: Now, he wants 35.07 % protection against the United States.

MR. McRUER: Yes, my lord. He goes on then to build up the protection that he would require against Great Britain. He builds that up to 32.08%, and I do not intend to go into that in detail, but I ask your Lordship to note that the last item, No. 9 on page 5, deals with wages and the only protection that he requires to make up for the difference in the rates of wages is 11.45%.

THE COMMISSIONER: Yes, the total is 32.80 according to him.

MR. McRUER: But the industry has got along not too badly on very much less protection than that ever since, but even in the face of these calculations---

THE COMMISSIONER: This, of course, is the cotton industry.

MR. McRUER: It is the cotton industry.

THE COMMISSIONER: As a matter of fact, American competition in cottons is pretty well shut out.

MR. McRUER: Well, it is effectively shut out because their cost of production there, apparently, is as high as it is here.

THE COMMISSIONER: But our figures show that their goods are not coming in.

MR. McRUER: It is not coming in.

THE COMMISSIONER: The competition that is coming in is from Great Britain.

MR. McRUER: In that case it is from Great Britain because the wall between Canada and the United States cannot be sealed. Then, we come to when they went to the Government in 1930, and Mr. Dawson was one---

THE COMMISSIONER: You are through with this letter, are you?

MR. McRUER: Yes, my lord. Mr. Dawson was one of the leaders in the representations made in 1930. He asked for a tariff against the United States that was very much in excess of those that are suggested in this letter, and on what basis they were built up I don't know.

MR. BRUNEAU: That letter of Mr. Dawson's has been produced, that you quoted? It is an exhibit?

MR. McRUER: Yes, that is Exhibit 492. It is in the record. There is one paragraph, a further paragraph in the letter that I wish to refer to and that is on page 8:

> "In this connection I think I should explain that in the making of our prices no consideration is primarily given to the duties on cotton goods. To the mill cost is added the necessary overhead covering such items as head office expenses, selling charges, bank interest, depreciation and dividends. Then through our salesmen we ascertain

what lines have to be sold at less than our prices so arrived at to prevent our competitors taking that portion of the business required to keep our mills in operation."

Now, no regard is paid to duties. What we do is take our mill costs, and I don't know where he gets them, add selling and overhead expense and sufficient to pay bank interest, depreciation and dividends. Then we ascertain from our salesmen what our competitors are selling at, and then we decide on the price so that we can get sales to keep our mills going.

THE COMMISSIONER: Read that paragraph again.

MR. McRUER: "In this connection I think I should explain that in the making of our prices no consideration is primarily given to the duties on cotton goods. To the mill cost is added the necessary overhead covering such items as head office expenses, selling charges, bank interest, depreciation and dividends. Then through our salesmen we ascertain"--

THE COMMISSIONER: Did you say depreciation in dividends?

MR. McRUER: And dividends.

"Then through our salesmen we ascertain what lines have to be sold at less than our prices so arrived at to prevent our competitors taking that portion of the business required to keep our mills in operation."

THE COMMISSIONER: Well, I think the inference in all that is that he pays no attention to the tariff

protection at all. That is, you have no attempt to go the full length of taking advantage of all the protection under the shadow of the tariff wall.

MR. McRUER: That is what the statement is, but on the other hand ---

THE COMMISSIONER: The inference from all that is that there is sufficient competition in Canada, at least in some lines, to make the price reasonable.

MR. McRuer: And what I want to point out in respect to that is that this company is one of the companies that was a party to the yarn agreement in which that competition was not permitted to prevail.

THE COMMISSIONER: That is in regard to cotton yarn?

MR. McRUER: In regard to cotton yarn, and when you have this statement that we go out and find out what our competitors are selling at, and then change that and say we go out and agree with out competitors at what price we will sell we see how neatly ---

THE COMMISSIONER: Of course, he says there, as I recollect your reading of it, that it is only in regard to certain lines.

MR. McRUER: If there are lines being sold at less than their prices they arrive at their price in this way.

THE COMMISSIONER: That would not apply to the yarns for the reasons you give, but it might apply to some other manufactured goods.

MR. McRUER: But the thing that would regulate this price to see that they are right is importation of other goods. Now, the statement is made on page 9 - I think probably I said I was done with this letter, but there are some statements of general policy enunciated at page 9 that I think I should deal with:

"As an offset to the handicaps herein referred to, and to enable the mills to secure a larger share of the country's business in cotton goods, we respectfully make the following request:

1. That the dumping clause at present constituting part of the Canadian Tariff be enforced by skilled Appraisers operating in fewer Ports of Entry."

THE COMMISSIONER: Operating in fewer ports of entry.

MR. McRUER: Yes.

THE COMMISSIONER: Does that imply a restriction of the ports of entry.

MR. McRUER: Yes, I should think so, so there would be more capable officers and less ports.

"2. That a permanent Tariff Board be appointed and that this Board be so clothed with power, that when proofs satisfactory to it are given that certain lines of foreign goods are being sold in Canada at prices below the cost of production, even though such goods are sold at similar prices in the country of origin, then the invoice value of such goods

may be increased for duty purposes to a figure considered by such Board as representing the actual or real cost of said imports.

3. That the duty on British cotton goods shall in no case be less than 25% of that of the general Tariff."

MR. BRUNEAU: 75%?

MR. McRUER: 25% of the general tariff.

THE COMMISSIONER: The writer would limit the British Preference to 25% of the General Tariff.

MR. McRUER: Yes.

THE COMMISSIONER: "ithout regard to the intermedia

MR. McRUER: Yes, that it would be tied on to the general tariff. Of course, the effect of that would be if there was to be any British Preference at all then the intermediate tariff would always have to be something more. It would be in between some place. So you start off with the general tariff and then you get down to the British Preference which would be 25% less than that and then the intermediate would have to come in some place in between.

" That the duty on cotton goods containing rayon or celanese yarns be not less in any case than the duty on all cotton goods of similar manufacture or class."

Well now, time has done a funny thing in regard to that. That is what they asked for in 1927. Now, what they have got is that the duty on cotton goods

containing rayon or celanese yarns is not less than the duty on all rayon or all celanese which is forty cents a pound on the intermediate and higher rates on the others. So that when we see after a great deal of care has been put forward in 1937, and look at it in the light of 1937 we find that a great deal of the tariff protection, that is, looking at it from the point of view of protection, is entirely unnecessary. Now, I think I have dealt with everything that I intend to say in respect to Canadian Cottons. We had expected that Mr. Forsyth would be prepared to go on this afternoon, and we sent word to him and called him, and he spoke to me at the hotel at noon and he said that he had been advised that Mr. Bruneau would be all afternoon and he had made other appointments ~~whi~~ this afternoon which he could not break. Therefore I am prepared to go on and deal with other matters, but Mr. Kellock and Mr. Heward are not here.

THE COMMISSIONER: You told me that awhile ago. Well now, at the beginning of your remarks this afternoon you said you might have to repeat in their presence some of the things which you were about to say and have said. Would it not be possible to have your remarks of this afternoon transcribed in time for tomorrow morning.

MR. McRUER: I do not think I shall have to repeat very much.

THE COMMISSIONER: You could hand the transcription of what you said to Mr. Kellock and Mr. Heward.

Well, I suppose we will have to take things as they are.

MR. BRUNEAU: I understand you are through with the discussion on Canadian Cottons.

MR. McRUER: Yes, I do not think I have got anything more to say about you.

THE COMMISSIONER: Then, we will go on tomorrow morning here with Mr. Forsyth.

MR. McRUER: And then I shall proceed to reply on the other matters.

-- The Commission adjourned at 3.40 P.M. to resume Thursday, March 18th, 1937, at 10.30 A.M.

ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

A.S. Whiteley, Secretary,

ONE HUNDRED AND THIRTY-THIRD DAY

(Thursday, March 18, 1937)

A R G U M E N T

Robert Brydie,
Official Reporter.

ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

A.S. Whiteley, Secretary.

Appearances:

J.C. McRuer, K.C. and E. Beauregard, K.C.	Commission Counsel,
R.L. Kellock, K.C.	For Primary Textile Co.
C.G. Heward, K.C. Aime Geoffrion, K.C. and C.T. Ballantyne,	For Dominion Textile Company.
S.G. Dixon, K.C.	For Courtaulds, Limited,
L.A. Forsyth, K.C.	For Canadian Celanese Ltd. and Canadian Silk Products Limited.
Francois Lajoie, K.C.	For Wabasso Cotton Co.
A.S. Bruneau, K.C. and G.A. Campbell, K.C.	For Canadian Cottons.

-- ooOoo --

Ottawa, Ontario,
Thursday, March 18,
1937

-- The Commission met at 10.30 a.m.

MR. McRUER: I understand that Mr. Forsyth is to resume.

MR. FORSYTH: Your lordship, I should first apologize to you and to the other gentlemen associated with this commission for having been unable to come here yesterday afternoon. I received notice rather late, and I found it impossible to get over, and the only compensating factor I think I can offer is that I shall not keep you very long now I am here.

With reference to the position of Canadian Celanese, I have examined very carefully the brief of my learned friend Mr. McRuer, and have also gone into his verbal argument, and so far as I can see the greatest reproach, if I may use that word, that he urges against the Canadian Celanese company has to do with a matter which is now largely past. As I understand it, the suggestion is made that the Canadian Celanese Company arbitrarily refused to sell yarns to other than weavers in the trade, at prices at which these weavers thought they ought to get it. I may say with reference to that that in the first place the records of the Canadian Celanese Company will show and the evidence given by officials of that company demonstrates that in the first instance when the company was formed and its operations were undertaken in Drummondville, they had conceived the factory largely

as the producer of yarns for the weaving trade. They made, as Mr. Cameron in his evidence pointed out, every effort possible to interest the other weavers in the purchase of the e yarns and found they were unable to do so. That being so, they embarked then upon fabrication of the yarns in a very substantial way, and over the period of time that the company has been in operation it is, I think, fully demonstrated that they have been able to utilize all the yarns manufactured by them in the production of their own fabrics. If that is so, it seems to me that they can hardly be expected to divert the production of yarn to the needs of other weavers and deplete their own resources; and secondly, they can hardly be expected to embark upon a larger production of yarns unless they have some guaranteed distribution, and no evidence before the commission, I submit, shows that that demand for yarns exists. The government of this country, after a hearing before the tariff board a short time ago, effectively removed any protection that exists on acetate yarns. I believe the duties now are five per cent.

MR. McRUER: That is on the British preference. But the places where the weavers would get them are the countries that are affected by the intermediate. The intermediate is now 28 cents per pound.

MR. FORSYTH: It seems to me, if I am not mistaken, that we had evidence that one of the persons, Mr. Tolmie, who was complaining about not being able

to get the yarns could get them at a figure of 83 cents, if I remember the figure correctly. I have Mr. Tolmie's evidence before me, and the evidence is that he has not bought any.

MR. McRUER: If he brought them in at that, he could not fabricate the fabric and sell it at that price in competition with your fabric that is being sold. That was his evidence and that is the reason he did not buy it.

MR. FORSYTH: I do not agree with my learned friend that that is what his evidence was.

MR. McRUER: He would have to get it cheaper than that.

MR. FORSYTH: My recollection of Mr. Tolmie's evidence, and it is found at page 10,614 and following, in volume 16 of the evidence here is as I have stated, and that when Mr. Hooper gave evidence he showed that the landed price of acetate yarns from Britain was within the range of the figure which Mr. Tolmie said he could profitably use. Now my submission is that if under the conditions of the tariff existing, Canadian Cottons or any other purchaser of yarns can buy them at a competitive price, it is certainly unreasonable to expect the Canadian Celanese Company to make a special production of yarns for those weavers or to divert to those weavers any of their own production which they can use profitably themselves.

In his discussion of the profits made by the Celanese Company over the period of time from 1926

to 1935 my learned friend raises an avenue of argument which I do not propose to follow in any great detail, because it brings in issue the whole theory of protection for industry, and that is a matter upon which a great deal of conversation has been made in the past and I presume a great deal will be made in the future. We have here a company which started in 1926, which invested a very substantial sum of cash in the business; it has since that time provided continuous labour to a very large force in the city of Drummondville and elsewhere in Canada -- I am speaking now of the sales distribution end of it as well as the manufacturing end -- and during that period the company has in round figures made some $27,000,000 of sales in this country. That means to say that the Canadian public buying the products of Canadian Celanese have spent $27,000,000. Now, how much they would have spent if they had bought that quantity of similar products abroad is a matter that has not been developed in this inquiry and, I think, on the evidence before you, could not be developed very satisfactorily. But if we assume that they would have bought the goods cheaper, the question is how much cheaper would they have to buy them in order to compensate for the advantages -- certain advantages, which I think my learned friend will concede -- that accrue from having the industry in Canada.

THE COMMISSIONER: Tell me, in a few words, what classes of goods do you make?

MR. FORSYTH: Well, we make in the first place, the yarn. In the second place we make fabrics that are used for coat linings, fabrics that are used for the manufacture of underwear, printed fabrics such as dress goods. I am afraid my own statement seems to be rather limited, because I am not as familiar with the details of the operations as possibly I ought to be. But I would say that the Canadian Celanese Company makes a fairly complete line of dress goods, goods that are used for tailors' fittings, such as linings, and material for the manufacture of underclothing of various kinds.

THE COMMISSIONER: But you do not go outside of acetate material?

MR. FORSYTH: We do not go outside of acetate material.

THE COMMISSIONER: Not in cotton, for instance?

MR. FORSYTH: No. I think that they have recently started to do something in the hosiery line, but that is comparatively recent.

THE COMMISSIONER: That again would be artificial silk.

MR. FORSYTH: Yes, it is an acetate yarn operation. It is rather difficult for anybody to appreciate how much cheaper one ought to buy this material in order to compensate for the advantages of having the industry in Canada. We know this, that of the $27,000,000 a large portion was spent in wages and salaries and in the purchase of products that are used

in the manufacturing operations. As I say how far down we ought to go is a matter which leads one into the realm of speculation, but I would suggest to this commission that the existence of the Canadian Celanese plant in the town of Drummondville is of benefit to Canada and particularly to the community in which that company operates, and I submit that the result of the operations of Canadian Celanese Limited is a justification for themeasure of protection which they have enjoyed over the period of time.

THE COMMISSIONER: You are the only manufacturer in the country of acetate?

MR. FORSYTH: Of acetate, yes. Another question which my learned friend Mr. McRuer touched upon in a general sort of way was that the salaries paid by the company seemed to him to be high. That, of course, again is a relative matter. The history of the company with respect to its dealing with employees, with respect to the wages paid, and with respect to the non appearance of any labour trouble, is one which I think is entirely favourable to the company tand should commend itself to the commission.

THE COMMISSIONER: Is your range of wages higher than that of the other textile companies?

MR. FORSYTH: I would not claim that it is higher. I think we may be said to have paid certainly as good as or better than the going wage. I think that is so, Mr. McRuer, is it not?

MR. McRUER: I am not prepared to make any statement,

because I do not know. Mr. Beauregard is more familiar with that aspect than I am.

MR. FOSTER: At any rate, I went over Mr. Beauregard's argument on labour questions, Mr. Commissioner, very carefully, and I could not find that any reference was made, and I am sure it would have been made if there had been any criticism of the Canadian Celanese from the labour point of view. Now, if my learned friend had been able to demonstrate that we were taking money from labour and handing it out in a spirit of gratitude to high salaried executives, that might have been a fit subject for criticism. But one thing that must be remembered, I think, in connection with the salaries in this industry is that the industry itself is comparatively speaking a new one. It is an industry which at the present stage in its development demands a high standard of technical knowledge to carry it on, and the persons who are executives in this company at theproduction end -- well, there are not too many of them; I mean to say that there is a limited supply of individuals of that kind upon whom one can call, and naturally, like any other scarce commodity, they command higher salaries. That is number one. Number two: I think it should not be forgotten that the Canadian Celanese Limited came into Canada as coming into what, for want of a better expression, I call a cold market; that is to say they had to break new ground here, and naturally, breaking new ground, they had to get good men to do it if the ground was to

be well broken, and in order to get results I think they felt called upon topay for them.

THE COMMISSIONER: In what other countries do you operate?

MR. FORSYTH: The American Celanese Corporation of America operates in the United States, and British Celanese in Great Britain.

THE COMMISSIONER: Just in those two countries?

MR. FORSYTH: Yes, and although my learned friend suggests in his brief that these companies are sort of subsidiaries one of the other, that is not quite accurate. There is an interlocking shareholdership, so to speak, of persons. The Dreyfus people, for instance, are interested in all three companies.

THE COMMISSIONER: Yes, I remember now,

MR. FORSYTH: But there is a very large body of public shareholders in all three of these companies, and one company is not controlled by the other. But the organization of the three companies is such that each one of the three gets the benefit of certain technical processes that are employed, some in England, some in United States and some in Canada; they exchange information, and that is one of the things that Canadian Celanese has to pay for. Perhaps I might say also that from a purely practical point of view I think that the progress which has been made by the Canadian Celanese company is of itself a certain justification for the salaries that are paid to the executives. The company has been successful. It is demonstrated by

the evidence here and by the figures which the company submitted that its operations over the comparatively short period of time that it has been in operation have been very efficiently conducted, that the results have been from the point of view of the shareholders and I think from the point of view of the community interested as well, entirely satisfactory. My learned friend suggests that the profits the company has made each year are pretty satisfactory, and I suggest to him that one of the reasons that they have made profits in the way that they have is because they have operated that business efficiently and carefully, and that in itself that is a justification for the remuneration received by the people who are charged with its operation.

MR. McRUER: The tariff had nothing to do with it?

MR. FORSYTH: I am not prepared to say that the tariff had nothing to do with it. I think my learned friend and I are not so far apart on the question of tariff as we might be. What I say is this, that I doubt very much whether, without a tariff, Canadian Celanese Limited would have operated in Canada at all, would have come here. I do not think it would have. But I do not think that the existence of the tariff is necessarily the most important factor in the quantum of the profits of that company, and I think that if my learned friend would compare prices for the fabrics in Canada with prices of celanese fabrics elsewhere he

would find that that statement of mine is justified.

MR. McRUER: When you say "elsewhere" where do you mean? Do you mean Belgium and Italy?

MR. FORSYTH: I am talking about celanese fabrics that are made in the United States.

MR. McRUER: I mean ones that are made in some other country that Canada might get them from equally good.

MR. FORSYTH: I am obliged to admit that I have not made in connection with this matter a survey of all the countries in the world, but I have made a limited inquiry, and the places where celanese fabrics are sold -- I am speaking of celanese, not of artificial silks generally -- I say that the people of Canada have not by reason of the existence of the tariff paid an undue price for these fabrics as compared with the markets where they were sold elsewhere.

THE COMMISSIONER: About how many men and women do you employ at Drummondville?

MR. FORSYTH: About 2,800. I think that is the last figure. And the company has made very substantial expenditures. They are all contained in the information that we have filed here. I want to point out that the company did not really begin to make money in this business until about 1932, and its net operating profit over a period of nine years was $7,161,000, and the persons who put their money into the preferred stock received no dividends whatever

during the first four years of the company's operation.

THE COMMISSIONER: I suppose this company answered the questionnaire, did it not?

MR. FORSYTH: Yes, my lord.

MR. McRUER: Mr. Hewson is just getting that information, my lord. The effect of the fact that Canadian Celanese is not only a manufacturer of a finished product but the manufacturer of its primary products as well, does give it, I concede, a favoured position as compared with weavers who do not have the facilities for the manufacture of their primary product; and if I may say so, I submit to you that the evidence that was given on this point by Mr. Tolmie shows that there is rather more concern in the minds of the other weavers about the price of Canadian celanese fabrics than there is anxiety to purchase yarns from them.

THE COMMISSIONER: What are the principal other companies who manufacture acetate products?

MR. FORSYTH: Well, I do not think it can be said that there --

THE COMMISSIONER: I asked Mr. McRuer; perhaps he is more familiar with it. There is Montmagny for instance.

MR. McRUER: Yes, they use it for mixing, apparently, a great deal, that is, making mixtures of celanese and silk or celanese and viscose. They use it for that purpose at Montmagny, and Mr. Binz gave some evidence in connection with it, and what I gathered from

the evidence is that they were all quite willing to manufacture if they could get theyarn at prices at which they could manufacture it in competition with the Canadian Celanese Company.

THE COMMISSIONER: Well, they can get theyarn now from Great Britain.

MR. McRUER: Yes, but the price that they can lay it down from Great Britain, according to the evidence, is not such that they can weave and still sell the fabric in competition with the Canadian Celanese Company, and your lordship will see by the sort spread of profit that there is on the confidential information that is filed here, in regard to the cost of production of yarn and cost of production of the fabric, that one can well understand that, the Canadian Celanese making their own yarn, can sell the fabric at a lower price than they can import the yarn from Great Britain and sell the fabric.

THE COMMISSIONER: But still, of course, yarn from Great Britain comes in free, does it not?

MR. McRUER: No, five per cent.

THE COMMISSIONER: And the intermediate tariff is what? Twenty-eight cents a pound?

MR. McRUER: Twenty-eight cents a pound is the intermediate tariff.

THE COMMISSIONER: And theother countries that can possibly export to Canada are Belgium -- ?

MR. McRUER: And Italy, and at any rate possibly some from Germany. I do not know about France.

I think France as well. But just recently, as to yarn brought in from Italy, your lordship will remember Mr. Hooper told us that there was a ruling by the Department of National Revenue that it would come under the dumping clause, and then that was applied and that was stopped. I do not know whether that was at the instance of my friend's plant or not.

MR. FORSYTH: Not at all.

MR. McRUER: I do not know who else would be interested in it.

MR. FORSYTH: Well, I do not know who is interested in it. I do not think we were.

MR. McRUER: You would be the only one who would be affected by it.

MR. FORSYTH: When they instigate anything like that I usually do it, and I did not do that.

MR. McRUER: Probably they are saving now.

MR. FORSYTH: Maybe. But I do not think my learned friend will find that they had anything to do with that.

The number of employees in the production end of this business, that is the working mechanical staff, supervision and clerical, is 2,861. But there is I suppose, after all, in the textile business as well as in anything else, the man who arranges his affairs so that he has a particular benefit from his situation, and I suppose he is entitled to have it; and these pepple took the risk of putting their own money into the yarn mill and making the yarn and I

suggest that they are entitled, first to reap the rewards of their investment, and also to profit by the more efficient set-up which follows when a secondary producer or finished product producer establishes himself as the maker of his primary product. As my learned friend put it, I think quite fairly, my impression is that there is no one in Canada who makes purely acetate fabrics such as those of the Canadian Celanese and that the acetate yarns are required because they take or do not take dyes in a certain way, they are used for mixing purposes, and it would not appear atnfirst blush, although I am not sufficiently technically informed to be very specific about it, that the position of a person requiring small quantities of this yarn for mixing purposes is very severely prejudiced by his ~~abi~~ inability to get it at the same price as the person who uses it as a basic raw material, that is, as a basic material for the manufacture of his fabric. The question is after all, I suppose, what is the ultimate cost of the whole fabric and what relation does the amount you are going to mix in it bear to the finished web or the finished fabric? That is the matter that I have not been able to locate any evidence about in the record, although it may be there.

THE COMMISSIONER: One point: is the tariff against Great Britain five cents ad valorem or five cents a pound?

MR. FORSYTH: It is five cents ad valorem.

I do not think, your lordship, there is anything

further that I have to say about this matter. If there is anything that I have overlooked, I would be very glad to have it called to my attention. Or if there is anything that it is felt we could offer some explanation about, I shall be very glad to do so.

THE COMMISSIONER: You are not charged with concealment of profits.

MR. FORSYTH: Nobody has said anything about it so far, but if there is any mental reservation about that I should like to know it.

MR. McRUER: We cannot undertake that nothing might happen to you.

MR. FORSYTH: But so far, as I have told my learned friend, if we have anything tonconceal we have concealed it so well that he has not been able to find it. I do not think there has been any discussion of that kind.

.....

MR. McRUER: There are just one or two observations I wish to make before Mr. Forsyth goes, in reference to his company.

In sofar as the one aspect of the inquiry as it affects this company, and that is the contention that I put forward in my brief that it is a monopoly effectively monopolizing the Canadian market in the production and sale of celanese fabrics and the manufacture of acetate yarns, and refusing to sell them to their competitors so that their competitors might weave them into fabrics similar to the fabrics they manufacture and compete with

them in the Canadian market, the company appears to be unrepentent and puts forward, I think, very little justification for tariff protection that enables it to do that. At the present time we have it that the companies cannot get their supplies from Great Britain on such terms as enable them to weave and compete with Canadian Celanese, so if that is the case, why, 28 cents a pound on the intermediate, and preventing the other weavers from getting yarn on a basis on which they could compete with this industry, enables them to hold a complete monopoly of the Canadian market. In regard to the wages of the company, they are dealt with at page 221 of Mr. Beauregard's brief, that is the English translation, and also at page 222.

On the basis of those receiving less than ten cents an hour, there is ~~pei~~ .1 per cent; less than 12½ cents an hour, there is .3 per cent. Those are the males. Less than 17 cents an hour, .19 per cent; less than 21 cents an hour, 7.4 per cent; less than 25 cents an hour, 11.8 per cent; less than 30 cents an hour, 40.4 per cent; less than 35 cents an hour, 57.6 per cent. And may I just pause there to compare it with the Courtauld company: at less than 35 cents an hour the Courtauld company have 4.4 per cent as against 57.6 per cent of this company. And less than 40 cents an hour, the Courtauld company have 17.5 per cent of their male employees as against 71.2 per cent of this company. So that your lordship will see that the scale of wages paid by this company

in respect to the male employees is very much lower than the Courtauld company. On the other hand your lordship will remember, as I point out in my brief, that the scale of high salaries paid to this company is, I think, without parallel in any of the industries that we investigated.

(Page 18770 follows)

The salaries paid to executives in the Courtauld Company were, I think, not unduly high, and I could levy no criticism in respect to them, but in this company, as is shown in my brief, they --

THE COMMISSIONER: What page?

MR. McRUER: I had it open at the page. I deal with it at 119, my lord. For instance, dealing with some of the depression years; in 1934 22 salaried executives -- this is page 122 -- drew $247,398, and they ranged from $5,069 to $27,500. In 1935 28 drew $294,458. The lowest was $5,050 and the highest $35,000. In 1955 seven parties drew $148,000.

THE COMMISSIONER: On that same page I asked the question and I got the answer, I took a note at that time the mill was employing 2100 people at Drummondville. Somebody told me that then.

MR. McRUER: Yes.

THE COMMISSIONER: Mr. Forsyth says it is 2800.

MR. McRUER: That would be the mill at Drummondville. I think the figures that are given here are all employees, are they not? Just a moment and we will see. There are 2300 operatives in 1935 but when you take in all the other staff, mechanical, supervision, clerical and so on in the mill it is apparently 2861 in 1935. In respect to the Courtauld Company in 1935 there were only three executives drawing more than $10,000 a year, and the maximum was $14,215. There were only four executives that drew over $6,000 a year. So that there is quite

a contrast there, but when we come to deal with the female employees we find at Courtaulds 50% were below 25 cents an hour and 49.9% at Canadian Celanese. So they are practically the same in respect to that. At Courtaulds 94.6% were below 30 cents an hour and at Canadian Celanese 67.2%, and 99.9% at Courtaulds were below 35 cents an hour and Canadian Celanese 78.5%. So that in respect to female employees Canadian Celanese Company on the whole seems to have paid slightly higher wages than the Courtauld Company. I think that is all I have to say.

MR. FORSYTH: Would your lordship just pardon me, one observation; of course, a comparison of the male staff at Courtaulds with the male staff -- the male employees at Courtaulds with the male employees at Celanese is hardly a fair one because the operations at Courtaulds and the operations at Canadian Celanese are, while similar to a certain point, they get very dissimilar as they go on, and the Canadian Celanese, for instance, does weaving of fabrics of a very substantial figure. In fact, they weave all their own yarn and the Courtauld proposition is essentially a yarn proposition and the type of employee in the yarn business commands a higher wage than in the fabricating or weaving end, and that is explanatory of the difference. Of course, your lordship will realize we would not be able to get employees to do the same work unless there is some difference in the labour market in the Province of

Quebec and that of the Province of Ontario; if there is a difference it would work in our favour on that, but my recollection of the evidence on wages -- and I don't think it will be disputed -- is that for the same type of work in the textile industry the employee of the Canadian Celanese receives as good or better pay than he or she does in other units of the industry

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ARGUMENT BY MR. McRUER, K.C.IN REPLY(Resumed):

My lord, in reply to the arguments that have been presented by my friends, Mr. Kellock and Mr. Heward and Mr. Ballantyne, it is not my intention to reply in detail to the meticulous arguments that have been presented to your lordship. If I were to do so it would take me as long as it has taken my friends to present their arguments, and I do not think that there is any point to be gained in dealing with the reply in that way. I intend, rather, to present my argument in reply on an broader basis and deal with the subjects that have been discussed in a more general manner.

Now, one of the things that, of course, is of extreme importance in this inquiry is the subject of investment and profit. I propose to deal with that and I propose to continue and enlarge upon the argument that I presented yesterday arising out of Mr. Dawson's letter that was discussed yesterday, and that is the quantum of protection that the textile industry, as a protected industry, might be fairly

entitled to, not in detail, but on some general basis, and thirdly the question as to whether it is in the public interest to protect the industry at all. I shall endeavour to meet some of the contentions that have been put forward by my friends in respect to these aspects of the case.

Now, first on the subject of the profits that the industry has made during the past years that it has enjoyed the benefit of a protective tariff. Since 1878 this industry has, in most cases, enjoyed a protective tariff. Now, great criticism has been levelled at the method in which we have approached the survey of the profits that the industry has made in the past, but I cannot see wherein any case for criticism has been made out in respect to our method at all.

Now, here is the method in which I approached the matter and I contend it is thoroughly sound. In the first place we have the industry doing business in Canada, not as one organization but as a number of organizations, coming into being at different times, changing from time to time, amalgamating, closing mills here and closing mills there and re-opening mills or enlarging other mills, and how is one to study the prosperity of the different branches of the industry other than looking first at certain specified companies that have been in business for a long time in certain particular branches of the industry and seeing how they have got along as far back as we are able to go.

Now, I am not very much interested in the derelicts of the industry. I do not think we are interested at all in studying the derelicts of the industry because if there are four or five companies doing business and one of them prospers and three others do not there is a reason why the one of them will prosper and the three others will not, and I do not think it is economically sound to base a protective tariff on the basis that it is intended to nurture and give health to derelict management, or bad management in an industry, or incompetent management. We must have in mind then that insofar as you study the history of the industry as a whole we study the good, well-managed companies that for no apparent reason have got on well in the country -- I mean for no apparent reason other than good management they have got along well in the country.

Then, in studying the industry from that point of view under the heading of investment and profits we look to see what profits the investors got on their investment when they said "we will enter this field under the protective tariff that has been provided for us". Then, in order to determine what profits they have made we have to study the history of the companies over a period of years, and we did that. We took the cotton industry and we studied the history of the outstanding companies in the cotton industry. We studied the history of the Dominion Textile Company in detail as far as we could get the records because

it is in the unchallenged position of being the leader in the cotton industry in Canada, and I assure my friend that because we have studied its affairs in detail it is not from any malicious motive in regard to the Dominion Textile Company, but because of its prominent position in the industry.

Then, we studied the Montreal Cottons Company, which was another very old company that was not an amalgamation of companies, and we studied the Wabasso Cotton Company, not in such detail because it was a newer company, but at the same time we went carefully into the history of it, and also the Canadian Cottons Company as far as we were able to obtain the records.

In addition to that then we took all the companies that were in the cotton industry and we had a survey made of what they have been doing during the last ten years since 1926, and notwithstanding my friend's extravagant criticisms in regard to the manner in which Mr. Howson has done this I submit that it has been done with the greatest care and the greatest thoroughness, and when my friend suggests that Mr. Howson has prepared statements that do not correctly reflect the affairs of the company I ask your lordship to definitely find that Mr. Howson's statements are correctly prepared, and that they do correctly reflect the affairs of the companies.

Now, I just want to read from my friend's, Mr. Kellock's, brief in respect to what he said in regard to this, and I think it is important that I should meet it because it has gone out to the public. Mr.

Kellock?, I do not think, dealt with this as fairly to Mr. Howson as he should have.

THE COMMISSIONER: What page?

MR. McRUER: I am looking at section "D", page 1.

THE COMMISSIONER: Section "D"?

MR. MCRUER: Section "D", page one. When one makes accusations of unfairness one should be guarded in one's language because of the injustice that it may do. For instance, as a result of what Mr. Kellock had said, an ex-cabinet minister said to me one day, "is it true that the commission additor showed net profits without taking into consideration depreciation"? Well now, Mr. Kellock did not say that, but at the same time what he did say was an accusation that the net profits were not correctly shown, and I am going to show it is without foundation. Now, let me read what he says here in section "D", page one:

" Counsel for the Commission through the Commission auditor has presented numerous statements to the Commission purporting to show, amongst other things, the capital invested in the Industry, the results of the operations of different manufacturing groups and of individual companies in the industry over a period of ten or more years including the gross and net profits and the relation of these profits to the capital invested. It is submitted that in a great many cases these statements are drawn up in such a way that the profits shown appear much greater than they actually were - in fact,

"in scarcely one single instance is a correct presentation made of the earnings of a company or of a division".

THE COMMISSIONER: Earnings?

MR. McRUER: --"of the earnings of a company or of "a division. Accounting phrases have been used in especially restricted senses without any indication that such is the case and ratios have been set side by side which are not comparable without any indication being given as to the significance of the variations. There are numerous examples of these inaccuracies many of which were brought out in cross-examination of the Commission auditor and others which are apparent to anyone who studies the statements. Under these circumstances it is submitted that the statements filed by the Commission auditor cannot be relied upon to show what the profits of the companies really were during any of the years and therefore that the Commission has not received in these statements the information which it should have to form a proper opinion as to the profits which have been actually earned by the textile industry."

Now, I say that statement is entirely without foundation. It is most unjust and most unfair and was not supported by Mr. Kellock in his argument. I take this as of some importance because if I have not put before your lordship statements that are correct and statements that correctly show the profits of the industry and the

affairs of the industry I have been woefully derelict in my duty and I would merit most severe condemnation.

Now, take, for instance, exhibit 917. If your lordship would be good enough to look at the first page of the exhibit, and this deals with the survey of the business of the Canadian Cottons which is the first page because it is in alphabetical order. Now, Mr. Howson attempts here to make a survey, an analysis of the capital employed in the industry first from 1926 to 1936, and he sets up current trading assets as per returns. Now, that is taken from the returns that they sent to him and it is not challenged in any sense. Then he has added in the inventory reserve for each year. That is not now challenged. During the course of the inquiry some of Mr. Brown's figures in regard to the quantum were under revision, but this was as Mr. Howson got it from Mr. Brown, the auditor.

THE COMMISSIONER: When you use the term "inventory reserve" is that the line following the words "inventory adjustment"?

MR. McRUER: No, my lord. Has your lordship got the first page, current trading assets as per returns. The first sheet is current trading assets as per returns.

THE COMMISSIONER: That is not this exhibit, and this is 917, page one, which is Canadian Cottons profit and loss account.

MR. McRUER: The pages must be reversed. Will your lordship turn over to the next page then, and

see if the next page is headed "current trading assets".

THE COMMISSIONER: That is page two.

MR.McRUER: In binding them up there must have been a mistake made.

THE COMMISSIONER: I could not make out what you were getting at. Yes, I have it now.

MR. McRUER: Then, inventory reserve is added, and these figures have to be corrected according to the amended figures that have been decided on between Mr. Howson and Mr. Brown since this statement was prepared, but that figure was prepared on the basis of what Mr. Brown had given Mr. Howson.

THE COMMISSIONER: This page is entitled "analysis of capital employed".

MR. McRUER: Yes, my lord; then, it gives"total current trading assets as adjusted." Then we come to "less current liabilities", and that is from the statements that are given. Then we come to the net working capital and that gives us the sum of the working capital employed. Then, we have "book value of fixed assets after depreciation", again taken from their returns, and then Mr. Howson deducts what he calls "inflation in initial values of plants taken over(traced)". That is what was explained in the evidence and it is perfectly clear. Of course, all these statements have to be taken together.

THE COMMISSIONER: Now, this is the first item that is not admitted.

MR. McRUER: It is challenged, but it is shown

in the statement on page four, I think it is, exactly how it is made up. It is page four of mine, which is headed "memo re fixed asset values", and your lordship will see $121,869.93 --

THE COMMISSIONER: No, you mean one million.

MR. McRUER: $1,121,000, yes; from this should be deducted inflation in book values which can be traced, and it was explained that these were mills that were sold and closed up and should be taken out of the capital of the business. They cannot be carried on as part of the capital on which you are going to earn money, on something that should be taken out of your natural depreciation or obsolescence or whatever it is.

THE COMMISSIONER: Mr. Bruneau dealt with that. He disputed the propriety of taking those items out.

MR. McRUER: Yes, but that has been dealt with. Then we come to the net value of the plant, then the capital employed in manufacturing operations. Now, that is a perfectly clear statement, and while I do not admit, and I certainly challenge that we can draw proper conclusions from the capital employed in manufacturing operations during the last ten years, it is a very important item to consider, and all my friends agree on that.

THE COMMISSIONER: Just a moment; capital employed in manufacturing operations is the result of what, adding --

MR. McRUER: Of adding $5,079,000 to the $6,956,000 you try to get at what the whole capital is that is

employed in operations. I go further and I analyze and show how that capital is built up, but for the purposes of this survey for the last ten years we take it on the basis of seeing what they have earned on the capital irrespective of how they got it. Then, we have capital in business employed in other ways, and your lordship will recollect that Mr. Bruneau when he presented his argument, he said that these statements were prepared with great care and he rather congratulated Mr. Howson on the manner in which he had prepared them and the accuracy of them, but he said in one or two of its aspects he did not agree with his conclusions.

THE COMMISSIONER: No, he contended that the capital employed is $1,121,000 larger than Mr. Howson finds it.

MR. McRUER: Yes, but as far as Mr. Howson's method of compilation of the statement and so on Mr. Bruneau was congratulating him on the care with which he had compiled it, and its fairness. Then, we have total capital shown and then we have capital invested is represented by. Now, Mr. Howson shows what is represented by bonds. He shows what is represented by preferred stock. He shows what is represented by common stock. He shows what is represented by contingent reserves, inventory reserve, and I think that is probably a misnomer giving the company more credit for the character of that reserve than it really has, but it certainly does not show any indication on Mr. Howson's part to strain any

case against the company. Then he shows what is represented by undistributed surplus, and then he shows "less inflation in plant values as above", and that is the same thing, and then we have the total capital. Alright. Now, there has not been a suggestion from a single counsel in this inquiry as to what better method you could use to survey this industry than that, giving all the details. Now, we turn over -- your lordship will turn back -- to the profit and loss account. Now again the statements here are taken from the returns that were sent in, and what Mr. Howson did was make a mathematical calculation. It will be page one in your lordship's exhibit. He made a mathematical calculation of what was shown on these returns. Now, "sales less discounts and allowances". We have not had a breath of a suggestion from Canadian Cottons that there was anything whatever wrong in taking those sales. That is the net value of the sales, sales less discounts and allowances, and then we have cost of sales shown before depreciation, and that is perfectly plain, and then we have the inventory adjustment which was put through. That is the disputed inventory reserve showing perfectly plainly what it is. Then we get gross profit before depreciation. Now, it was Mr. Howson's duty to show that with the inventory adjustment. Your lordship can make what finding your lordship wishes in regard to the inventory adjustment, inventory reserve, whether it affects the profits or not, but it was Mr. Howson's duty to show the calculatio with it. Then, we have the percentage to sales. Now,

these are the things that my friend, Mr. Kellock, has launched at hither and thither in his argument seeking to have your lordship find that you cannot rely on these things, but, at the same time showing, as far as I can see, no ground for it. The percentage to sales; now, that does not say anything about net profit. It is the percentage of gross profit to sales. Now, that is an exceedingly important thing for us to know, and it is important for us to know in dealing with this very company because we want to know what sort of a discount ought reasonably to be taken off list price. Then, we have the depreciation taken into consideration, and that is shown, and it is shown what the depreciation was each year. Then, gross profit after depreciation--

THE COMMISSIONER: That means the depreciation actually taken by the company?

MR. McRUER: Actually taken by the company, yes, my lord, from their own statement, and then again we have the calculation percentage to sales. Then, we have total selling and administration expense. Now, that is something that is segregated so that we can see and compare between the different companies. What possible objection can be taken? It shows these figures accurately, and I think they ought to be shown because one is the expense of manufacturing and the other is expense of selling. Then we come to net profit on sales. Now, that is the net profit on sales. Now, you see my friend, Mr. Kellock,

says "oh, you must not look at that, you must not call it net profit on sales because you have got to pay your bond interest, your bank interest, you have got to pay this amount and that amount out of it, that you have raised capital from". That is thoroughly unsound, I submit, because if we attempted to show a survey of this industry on the basis of the different companies individual manner of financing we would be in a hopeless mess. After all, a man's profits, net profit on his sales, are the net profits that accrue, and he can get his money to carry on in any way he likes. If he puts his own money in he says "that is my net profit on sales". If he borrows money from the bank for capital, that is, permanent loans from the bank -- and I agree with Mr. Heward in respect to the temporary loans; Mr. Heward, of course, is entirely at one with me on this and has said that it is the only scientific method of considering the business and the financial affairs of the company, that is, to disregard temporary bank loans, but if a bank loan is taken in in the nature of capital, that is, a man invests a small amount of money in the business but he borrows a large amount of permanent capital from the bank then you should take it in as capital in the business, but it doesn't make any difference where you get your capital in surveying the business for a tariff inquiry. They are all in the same position, whether they raise it by bonds, by common stock, by preferred stock, by bank loans, or how they raise their capital, because what we consider

is the net profit on the sale to the consumer that accrues to the business, and by business I mean the capital invested in the business irrespective of where it came from.

THE COMMISSIONER: Well, we will take a few minutes.

-- The Commission adjourned for a short recess.

(Page 18790 follows)

-- On resuming after recess:

Now, in the same manner Mr. Howson has analysed in this Exhibit Canadian Cottons, Cosmos Imperial Limited, Dominion Textile Company, Hamilton Cotton Company, Montreal Cotton Company and the Tabasso Cotton Company, with their subsidiaries. Everything is as clear in those as can be. In the preparation of the statement there has been very very little criticism as to Mr. Howson's deductions. We are absolutely in conflict inrespect to some questions of principle - especially in connection with the Dominion Textile Company we are straightly in conflict on some questions of principle.

THE COMMISSIONER: You mean questions of appraisal and depreciation?

MR. McRUER: Those things but it is perfectly clear on the statement the basis on which they are formed and as far as the Dominion Textile Company is concerned no criticism has been levied.

Then the Industry as a whole, the reporting companies were surveyed over a period of 10 years and I just want to ---

MR. HEWARD: You do not mean that the Dominion Textile Company are not in convlict on principles?

MR. McRUER: No, I said that. I said there are serious principles of conflict on which we conflict, but I as counsel take full responsibility for questions of principle. Rightly or wrongly these things appear to me in certain aspects,

and my friend Mr. Kellock stoutly maintains that I have no right to consider how capital was built up and got into the company, all I have to consider is earnings on that capital. I am going to deal with that later on, but to get at the true story of what took place that is the objective of these statements and then we argue what deductions ought to be drawn from them.

Now, to take this Exhibit 998, on the first page Mr. Howson shows a "Summary of Net Assets." Now, this is a compilation of all the reporting companies and the names of them are available.

THE COMMISSIONER: Just a minute, what I have here is "Primary and Industrial Cottons Division."

MR. McRUER: Yes, of all the reporting companies of the Cottons Division. The names of the companies are all set out in a later sheet. We will come to that in a minute.

THE COMMISSIONER: Now, the page I have before me is, "Comparative Balance Sheet Summary".

MR. McRUER: Yes, my lord. This is composite balance sheet of these reporting companies over this period of years for the purpose of studying how the companies have got along during that ten-year period irrespective of how they acquired their capital or how they were built up to this stage. Now, we have "Working Capital." Then the "Fixed Assets, less Depreciation Reserve" shown. "Capital employed in the Industry," is the sum of those two.

Now, "Outside Investments" are shown separately. Then the "Goodwill, Patents, Trademarks," are shown and that is what is carried on the books as such. "Investment in and Advances to Subsidiary Companies" shown separately. Now, I should think that was a very accurate analysis of the capital of the Company. Now, we have "Less Investment in and Advances to, Subsidiary Companies in this Division." Then we have "Total Capital Investment." That is the total capital that is invested in these respective companies. Now, we show how it is represented, where they get the money for the purpose of our study and information. "Loans other than Current" - that is, permanent loans. "Bonds and Mortgages. Preferred Stock. Common Stock. Surplus and Free Reserves." Now, that gives us exactly where this capital is. Now, "Less Investment in and Advances to Subsidiary Companies in this Division." That is the same figure as shown above, so that we have the distribution of the total capital invested. Then we show "Number of companies Included in this Summary," that is, the number of companies reporting from year to year and then we have the "Capital Employed in the Industry as above," and "Deduct Appraisal Write-ups." Now, first we have it what their books show. Then we say we deduct the write-ups that have been made by virtue of appraisal, and it is perfectly clear as to what those are. Later on we certainly ---

THE COMMISSIONER: That is one of the items in which

you do not agree.

MR. McRUER: We do not agree on it, but before we deduct it we show the whole story in connection with the business and then we show here how it would show with that deducted. That is all Mr. Howson is doing there, "Capital employed in the Industry, as adjusted," amounts to that, and then we go over to the next page and it deals with the subject of "Profit and Loss and Surplus Summary."

THE COMMISSIONER: On that capital?

MR. McRUER: Yes, my lord.

THE COMMISSIONER: You bring it back to that $40,000,000 all the time?

MR. McRUER: Yes, my lord, but I will make it perfectly clear on the statement what it is. We show the "Sales." We show "Cost of Sales before Depreciation." We show "Gross Profits before Depreciation." We show "Depreciation." We show the "Gross Profit after Depreciation; Selling and Administration Expenses; Net Profit on Sales." I do not think it is necessary for me to say any more on that because your lordship has dealt with that in Mr. Kellock's argument with you.

THE COMMISSIONER: Then you go on deducting.

MR. McRUER: "Deduct Interest on Loans." We show what the interest on loans afterwards is. Then we show, "Net Profit from Operations," which is perfectly plain on the statement and then we add to that any income they may have and then we say,

"Total Net Profits."

THE COMMISSIONER: That "Miscellaneous Income" is outside?

MR. McRUER: Miscellaneous Income other than Operations as a cotton industry in their manufacturing operations and then we show "Total Net Profits," and then we show column "Percentage to Sales," of each one of those and we can compare them for the year. I could not think of any more careful and detailed way of showing all the different things but what Mr. Kellock criticized is that we should show so much, that we should just show what he would like us to show and that would be the profit after paying bank interest and everything else, but don't set it all out.

MR. THE COMMISSIONER: My recollection of the dispute between Mr. Kellock and yourself is he does not like the places where you insert the word "Net." I think it all comes down to that.

MR. KELLOCK: Yes, my lord.

THE COMMISSIONER: Cannot mislead anybody.

MR. McRUER: Cannot possibly mislead anybody.

THE COMMISSIONER: You take "Total net profits" $4,000,000, and theh you say, "Applied as follows:" Bond Interest, so much; Income Taxes, so much; Preferred Stock Dividends, so much, and Common Stock Dividends, so much.

MR. McRUER: Yes. Then when we come down below we show the number of companies and then the "Ratio of Sales to Capital Employed in the Industry."

Now, that is merely a comparative figure showing the ratio in different years. We show the sales falling down in certain depression years with their volume according to their capital. 1931 was 56.8%; 1932 was 49.6% and then we have it back in 1935, it is above what it was in 1936. In fact, it is at the high point. So that is a very interesting figure in studying the position of the industry to-day and that is, that their volume of sales production, their volume of sales at any rate to capital employed in producing those sales, is higher than at any other period in the 10-year period. Then we come to the "Ratio of Sales to Capital Employed in the Industry (as adjusted for appraisal write-ups)". Mr. Howson shows both. He shows one as you say it should be and one as it would be with the appraisal write-ups,--

THE COMMISSIONER: Makes the result higher.

MR. McRUER: That makes the result higher, but one could not be more fair I do not think in a compilation. Then the "Ratio of Net Profit from operations to Capital employed in the Industry." Now, that is the---

THE COMMISSIONER: That includes the value written up. For instance, 7% and then you have the next---

MR. McRUER: Then the next line shows the same thing with the value taken out. You have it both ways.

THE COMMISSIONER: That increases the ratio.

MR. McRUER: Then the next "Ratio of Net Profits

from Operations to Capital Employed in the Industry (as adjusted for appraisal write-ups)."

Then the next statement is one of "Sales" showing the values of sales over the period of years, and the next statement is one of "Gross Profits before Depreciation." Before I leave the question of Sales that shows the detail for the different companies of how the total amount of sales is arrived at. For instance, your lordship will see under the year 1926 the total was $42,164,953.90 and the total of sales, the first figure on the previous statement under the year 1926 is the same figure. So that it is a compilation showing how these totals were arrived at, and then we have, the nextstatement, "Gross Profit before Depreciation." Then we have the "Net Profit on Sales," and that is irrespective of how you get your capital. We compare your net profit on sales over the period of years for the various companies. Then the next page is "Net Profits after Interest on Loans but before Miscellaneous Income or Bond Interest." That is, you take out your interest on your loans now and there you are. Then we come to another very interesting and comprehensive analysis which shows ---

THE COMMISSIONER: Just pardon me a moment, that page is unnumbered. "Net Profit after interest on Loans but before Miscellaneous Income or Bond Interest?"

MR. McRUER: Yes, my lord.

THE COMMISSIONER: "Interest on loans" there means what - long-term loans from the bank?

MR. McRUER: All bank loans.

MR. ROWSON: All loans prior to permanent capital loans.

THE COMMISSIONER: Does it mean short loans from the Bank too?

MR. ROWSON: Yes.

THE COMMISSIONER: After interest on all loans there is really meant.

Mr. McRUER: Then we come to the "Operating Ratios" which is divided over the period of years which shows in four columns for each year: (1) Ratio of Sales to total Sales. That is showing the importance of each particular company in the field during that particular year. That is what the first column shows. For instance, Dominion Textile in 1926 had 47% of the total sales. In 1935 it had 39.2%. The next column is the "Ratio of gross Profits before Depreciation to Sales." Now, this is just for comparative purposes so that we can compare each company over the period of years and show how it has varied before depreciation - that is, on its manufacturing operations how much profit have you made after you have paid your expenses of running your business, because we know that the depreciation fluctuated from one year to another, and we can also compare its gross profit with other companies. Then the "Ratio of Net Profit on Sales

to Sales." Then the next is "Ratio of Net Profit after Interest on Loans but before Miscellaneous Income or Bond Interest. That is, this is reducing to ratios the two preceding pages. The next page then is the "Capital employed and Results from Operations," and we have the "Total Capital Investment," and then we show how it is built up according to the Company's books and we show what companies had an "Inflation in asset values," and then we have "Adjusted Capital Employed." Now, the whole story is there.

THE COMMISSIONER: Well, you begin with showing the capital which the Company claim is invested and you take off Mr. Howson's reduction, which are subject, of course, to argument, and then you arrive at then what he thinks is the real capital invested back of the $40,000,000.

MR. McRUER: Yes. Then we have "Total Sales." Then we have "Net Profits on Sales." And then we "Deduct Interest on Loans" again and then "Net Profit from operations." Now, those figures are all as clear as they can be. Then the "Percentage of Sales to Adjusted Capital Employed." That makes it perfectly clear because we have "Adjusted Capital Employed" above and we have how it was adjusted. Then, "Percentage of Net Profit from Operations to Sales." Then "Percentage of Net Profit from Operations to Adjusted Capital Employed." Then on the last page is a summary of the whole thing which

shows the "Sales, Gross Profit Before Depreciation. Gross Profit After Depreciation. Net Profit on Sales," with the respective percentages worked out and then "Deduct Interest on Loans," and "Add Miscellaneous Income," and then showing the "Total Net Profit," and then it shows how it was applied.

Now, when an Auditor and Counsel are charged with the duty that we were charged with under this Order In Council of trying to bring before the Commission as complete a story of the operations of this Industry as was possible, I do not know how we could have put it in a more intelligible and clear shape than we have done. We have done it with every branch of the industry. We have done it on their own statement and the only error of any substance that my friend has been able to point out except on the argument on those questions of principle, and wherever there is a question of principle at issue what is said in connection with it is clearly set out in the statement. If Mr. Howson has deducted inflation he has said so and has shown that it was before the deduction. My friend points out that in respect to certain companies that Mr. Howson did not take into consideration the fact that their dividends on the preferred stock were cumulative and had not been paid, and we agreed with him that was an oversight. In the first place, it is very easy for a company to say "Oh, our dividends is cumulative and still owing." But it means checking over their charters and by-laws

and seeing whether their preferred stock is cumulative or not and it means going into that subject matter and that was overlooked but in the aspect in which I dealt with it in my brief that makes no difference because I surveyed these companies for the last ten years on the earning on capital employed and whether it was paid out in dividends or kept in the Treasury or was still owing for dividends it made no difference - the percentage was on the capital employed, and that is the way I dealt with it in my Brief throughout because I could not possibly deal with the industry as a whole on any other basis than on the basis of the earning on the capital employed during the last ten years for that comparative period. But subject always to this - as to the study of how that capital was created and out of whose money it was created and by whom it was contributed, and I intend after luncheon to take one or two very clear examples that demonstrates the fallacy of my friend Mr. Kellock's theory and what is put forward by the industry as a whole, - that you must hands off the idea of looking into to see how we got our capital. We have it and we must have earnings on it and we must have tariff protection to provide us with what they say is a reasonable earning on the capital that is invested in the business irrespective of how it was created.

THE COMMISSIONER: We will adjourn now.

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-- The Commission adjourned at 12.30 P.M. to resume at 2.30 P.M.

-- On resuming at 2.30 p.m.

MR. McRUER: Now, with respect to the other branches of the industry, Mr. Howson has compiled his statements in the same manner as they were compiled in the cotton industry and which I dealt with in particular. In the artificial silk group he dealt with the two artificial silk companies separately, and they were not dealt with collectively because they were not comparable and could not be dealt with properly collectively because the one manufactured yarn and fabric and the other manufactured yarn only. In the silk group we dealt with individual companies; we took four individual companies and analyzed the business of those companies, and then we dealt collectively with the salaries of the business and of the reporting companies. Now in the woollen group: that group was dealt with in four ways, and, I submit, with the utmost fairness to the industry. In the first place certain individual companies were dealt with in detail, the Brook Woollen Company, the Dominion Woollens and Worsteds, The Paris Winsey Mills Company, the Paton Manufacturing Company, and Patons and Baldwins. The suggestion was made that these companies manufactured different lines of articles. That may be very true. We thought that the proper way to do was first to take the companies and these individual companies and show what they have done during the last ten years. And that is as far as we are able to do with this: we have not been able to

go back over the long history of them because otherwise our commission would have never finished. Then we deal with the companies collectively in two ways; one including the Dominion Woollens and Worsteds, and the other excluding them. They are a large merger brought together under circumstances that have been dealt with in the main. Now no possible injustice can be done to anyone if we deal with it in both ways and show on the records ~~of what~~ collective record of the woollen industry has been. Then we took out two companies that manufactured specialties and dealt with them separately, so that the commission could have the information as to them separate from the other companies, that is the companies that specialize in paper-makers' felts together with their other woollen business, that is the Ayers company, and the Kenwood company. So I cannot imagine what more fair and comprehensive manner could have been adopted in compiling these statements. And the hosiery, in the same way, we deal with individual companies and collectively with the reporting companies. Carpets in the same way, and woollen and all knit goods. Now in what manner should we consider the record of the companies for the last ten years? In my brief I have dealt with that aspect in two ways: 1, the percentage of revenue on capital employed in the industry, and 2, net profit on sales. Those are the two aspects in which I have dealt with their records over the past ten years. My friend Mr. Heward agrees with me that that is the sound and sensible basis of studying the

record of earnings of the --

MR. HEWARD: If you mean by capital employed, the investment, I do, but not if you mean--

MR. McRUER: Quite right. How we arrive at the capital employed in the industry is a different thing. But what we agree on, he agrees with me on this, he says, "What you call our capital employed in the industry - "

THE COMMISSIONER: Which is less than Mr. Heward puts it.

MR. McRUER: Yes, I put it at less than Mr. Heward puts it. But for the purpose of studying the performance of the industry over the past ten years he agrees with me that that is the proper criterion.

MR. HEWARD: But you should take in bonds and stock.

MR. McRUER: As capital. We do. We do include bonds and stock as capital employed in the industry.

MR. HEWARD: I say the more scientific way is to take the value of the investment.

MR. McRUER: It is the same thing, putting it a different way. My friend Mr. Heward says the value of the investment is the capital employed in the industry. I say you cannot go on that basis unless you find out how the value of the investment was brought in, and add to it all profit that has accrued in developing that value of investment. But I am coming to our point of difference on that. But at any rate

we have studied in detail the capital employed in the industry and the percentage of earnings on the capital employed in the industry. But I say -- and here both my friend Mr. Heward and my friend Mr. Kellock disagree with me and we are at issue -- I say that that is not a true test in a tariff inquiry; it is a proper study but it is not a true test, because you have got to study to find out how the capital employed in the industry was built up, whether it was contributed by shareholders who put up their money or investment or whether it is mere accumulated profit over and above the net investment that was put in by the shareholders.

THE COMMISSIONER: You are back to your reasonable profit there, are you not?

MR. McRUER: I am back more than that. In the first place, all the shareholders put in money in the business and --

THE COMMISSIONER: Those two things?

MR. McRUER: Yes.

THE COMMISSIONER: You say they are entitled to a profit only on money they actually put into the business, and secondly, that profit should be a reasonable profit.

MR. McRUER: Yes my lord.

THE COMMISSIONER: Without fixing any particular percentage as reasonable?

MR. McRUER: Yes, my lord. I want to take, in reply to what my friends have said, the clear case of the Penman Manufacturing Company. Now the

Penman Manufacturing Company is an important branch of the knit goods industry. In 1926 it accounted for 23.8 per cent of the sales of all these reporting companies, and I think there are some fifty odd reporting companies. In 1935 it accounted for the sales of 17 per cent, a good many companies having come in the field in the meantime. But that is a very important company in the knit goods industry. Now, if I may take a moment to go over exactly the position of that company to-day, when we survey the record of the earnings of the last ten years in the Penman company as shown in exhibit 1070 we find that the total capital employed in manufacturing operations is $7,134,000.

THE COMMISSIONER: What page are you at?

MR. McRUER: This is page 3 of exhibit 1070. That is in the year 1935. It is headed, "Penmans, Limited, summarized balance sheets."

THE COMMISSIONER: What is the figure you are pointing to?

MR. McRUER: It is about down to the middle of the page, under 1935, $7,134,801. That is the capital employed in manufacturing operations.

THE COMMISSIONER: Do you on the other side get at this capital figure the same way? Do you agree with that?

MR. McRUER: I never heard of any disagreement on these figures.

MR. KELLOCK: Of course, I say it is one day in the year, my lord.

THE COMMISSIONER: Yes.

MR. McRUER: Your lordship will see that when we take the earnings. Net profit on sales for 1935 was six per cent. My friends question these figures and say, "Well, that is a very modest earning on the capital employed in this industry".

THE COMMISSIONER: Are the percentages marked on this page?

MR. McRUER: Well, they are marked on mine in lead pencil. Are they in your lordship's?

THE COMMISSIONER: No.

MR. McRUER: That should have been inserted. I will have Mr. Howson do that. In the year 1926 7.9 per cent; 1927, 8.1 per cent; 1928, 8.4 per cent; 1929, 7.8 per cent; 1930, 4.6 per cent; 1931, 6 per cent; 1932, 4.2 per cent; 1933, 5.7 per cent; 1934, 5.7 per cent; 1935, 6 per cent.

MR. KELLOCK: Where is that from, do you know?

MR. McRUER: That is just the calculation of the net profit on sales to the capital employed in the industry. And then my friend Mr. Kellock says: "You must look and see what the shareholders got out of it, how much dividend they have paid on their shares, how much they pay on the common stock."

MR. KELLOCK: No, I never suggested that.

MR. McRUER: Well, my friend repeatedly said the return is what the shareholders get out of it.

THE COMMISSIONER: It might go to them partly in dividends and partly as an accretion to their equity.

MR. McRUER: Yes, but whatever it is, he says it is what the shareholders get out of it. I say you have got to go one step further and you have got to study what the whole capital history of the company was. Let us consider this one, because it is the clearest example of the fallacy of taking the earnings on capital employed over the last ten years or the earnings on the shareholders investments in stock equity, if you like, as a test.

John Penman came to Paris about 1878, I think, according to the evidence, and started in the knitting business there, and he eventually incorporated the Penman Manufacturing company. This is on page 227 of my brief. The original capitalization of the company was $250,000, with $204,300 capital stock issued. There we start off with $204,300. In 1893 the company had accumulated a surplus of undistributed profits amounting to $273,000, and they declared a stock dividend for that amount. In the meantime they had paid dividends on the original investment.

THE COMMISSIONER: What is the last year you referred to?

MR. McRUER: In 1893. So that for the shareholders who had $204,300 in it the stock dividend was $273,000. Then there was some other properties acquired for assessments of stock amounting to $244,000, making the total by 1906 that had been contributed directly for value, that is $204,300, $244,000 for properties acquired, and then there was the stock dividends of $274,100. The total stock

that was outstanding was $722,400. That is the capital value of that stock. Your lordship will see that about one-third of it was stock dividend and accumulated surplus over and above the dividends that had been paid.

THE COMMISSIONER: That is, you say the $250,000 invested in 1878 had grown to this figure in 1893.

MR. McRUER: We will just see that it had grown to a great deal more by 1906.

THE COMMISSIONER: It was at least that.

MR. McRUER: It was at least that. But over and above that they got their stock dividend, and they had their stock for what they put in, and they had their dividends in the meantime, and then what happened to the company. Mr. Stevart, for a syndicate, apparently, of the Sovereign Bank, comes along and buys from the shareholders their common stock for $350 a share, or pays $2,528,400 for outstanding common stock.

THE COMMISSIONER: What year was that?

MR. McRUER: That was in the year 1906.

THE COMMISSIONER: The year that I was talking about a moment ago was 1893.

MR. McRUER: 1893 was the stock dividend. So that the result of the business was that for the $204,300 of stock issued for cash --

MR. KELLOCK: In 1878.

MR. McRUER: -- in 1878, the $244,000 issued

for properties, a total of $448,000, $2,528,400 was paid in cash in 1906. And they had their dividends in the meantime. Now this is the importance of studying the underlying history of the capital setup of the company at the present time. They drew 39 dividends in t e meantime: we have not a correct record of the quantum, I think, but we have the carryover from 1892 to 1904, and it is set out in my brief.

THE COMMISSIONER: How do they run, what would be the average?

MR. McRUER: They would run --

THE COMMISSIONER: Read someof the figures.

MR. McRUER: In 1892 it was 8.172.

THE COMMISSIONER: Percentages?

MR. McRUER: The percentages are not worked out.

THE COMMISSIONER: Oh, all right; I thought you had them.

MR. McRUER: Then the total paid in dividends in those twelve years from 1892 to 1904 was $575,000. That is the total amount paid on what had been the original issue, the total cash investment of $448,000. That is in addition to the dividends that were paid prior to 1892 of which we have not got a record. Allright. After Mr. Stewart had entered in to this transaction and bought up all the share s that were outstanding at $350 per share, then Penmans Limited the new company was incorporated to take over th assets of the previous company, and it was given a capital setup under which shares were issued to the Penman Manufacturing Company or its nominees, and this is how the shares were paid for: $500,000 in

cash, $1,500,000 in first mortgage bonds; there was a total issue of $2,000,000, so that they issued $1,500,000 in bonds to acquire these shares and sold the balance to make the cash to acquire them, so it is just the same as if they had acquired the whole thing for cash, and $1,000,000 preferred and $2,000,000 in stock. So for what Mr. Stewart had paid $2,508,400, bonds, preferred stock and common stock were issued to the amount of $5,000,000. So that we have the whole of the common stock, which amounts to $2,000,000 and 40 per cent of the preferred stock which amounts to $471,000, over 40 per cent of the preferred stock, really 47 per cent, -- all water. It was pure water.

THE COMMISSIONER: That is, you say anything in excess of the $2,508,000 was water.

MR. McRUER: Yes. It certainly was profit built up out of the consumers' contributions to this company, because I dispose of the earnings. In the first place, the shareholders who sold in 1906 had made a profit: for $448,300 put in in cash or properties they realized $2,500,000, so we are not unkind to them if we say, "You had done very well when you got there, and you have had your dividends in the meantime." But the syndicate turns it over and says, "We are not satisfied with that amount of earnings for our predecessors, we turn it over to the company and all the common stock and 47 per cent of the preferred is issued to us as our profit on turning over the deal." Now, that is not capital put into industry by anyone,

and for us to demand from the consumers of Canada a tariff protection that would enable those financiers who put through these deals -- I do not call it manipulation, but for the financiers who put that through to make an earning on that watered stock is wholly unsound as any principal on which tariff should be based if we are to have a protective tariff for industry. But we go on from there. So when Mr. Kellock says the important thing is the earning on the common stock equity, it is to be remembered that that common stock equity is an equity that is presented to those shareholders by the beneficence of tariff protection at the expense of the consumers and to provide them with a still further earning on it and a return on that capital is an unsound basis on which to formulate a protective tariff. This example has stood unchallenged throughout this inquiry, and I do not know how it can possibly be challenged. It demonstrates the whole principle that underlies my argument in my brief, and that is that it is fallacious to demand from the consumers a return on capital invested in the industry if it is capital created out of profits earned in excess of what would be a fair return onthe money actually invested. Now this company has gone on and since 1906 has paid dividends on that common stock that is so created, and this is put at page 270, at $4,795,838.

THE COMMISSIONER: That is, in the thirty years?

MR. McRUER: Since 1907, in the twenty-nine years, on the common stock

47 per cent of which was of the same character as the common stock, it has paid dividends of $1,889,375. So those gentlemen who promoted this arrangement -- it was not a merger, there was no elimination of competition in this or anything else, it was just a turnover from one company to the other, only they could get out an issue of the common stock and 47 per cent of the preferred stock -- they have had over 200 pe cent return on the face value of the common stock, the $2,000,000, and all their dividends on the preferred.

MR. KELLOCK: If they held the shares down to the present time.

MR. McRUER: If they held the shares. I am going to deal with that point when I come to it in a moment. And in additionto that, the goodwill that was set up on the books. There was an item of $2,257,953 set up on the books as goodwill as against this stock which, I say, was pure water. There was no goodwill in connection with turning this over from one company to the other; the other company never carried it at all, but the new company carries that after it has paid the shareholders in full a very handsome return on their investments, $350 a share, then they turn it over and set it up on their books as goodwill. That goodwill has all been written off in the meanwhile, written down to a dollar.

My friend says that would be all very well, but these shares have been turned over by these gentlemen and sold to the public. They got a nice return

or nice earnings, and of course the shares would be saleable to the public, but we are told that they should have a tariff to protect the person who bought the shares from them. How can that be sound? Can our economic system in this country be built up on the basis that if people manipulate behind a tariff wall and erect a capital structure over half of which is pure water, and then by the beneficence of that tariff protection get a return on that watered stock, sell it to the public over the stock exchange -- can they then come back to the consumer and say "Well, you must stand behind these people and pay taxes to this industry" in order to provide a dividend on the stock that they have sold to the other investors? That cannot be a sound basis. We have got to dig deeper than that. It is most unjust. It was the consumers of the Dominion of Canada that gave this stock its value by paying the taxes to the company that were imposed upon the people by a protective tariff. Then when the persons who owned the property abused that privilege by this recapitalization, they go back to the consumers and suggest, "You must stand behind us in this abuse we have created. It is quite true you have overpaid us in the past through the subsidy we have been granted, but we have made a few million dollars by selling that stock to purchasers on the stock exchange; now you have got to look after the widows and orphans." That surely is untenable.

On page 231 I set out the net profit on sales for the years 1931 to 1935. I set out the net earnings on capital employed in operations. Now your lordship will see the figures: 1931, 3.6 per cent; 1932, 4.2 per cent.

(Page 18820 follows)

1933, 5.7%, and quite true it is a very modest looking earning on the face of it, but considered fromthe consumer's point of view that he is the man that provided that capital that is employed in operations, and provided it in the manner I have just dealt with, we can see what very great earnings they are. When my friend in his demonstration, my friend, Mr. Kellock, said that I had said during the course of the inquiry that it was perfectly terrible that a company should earn more than bond interest, which was a very incorrect statement of what I said, it was during the course of examination; the secretary of the company said "do you think its earnings exorbitant" and I said "I think under the circumstances they are very exorbitant", and I was then dealing with the net profit on sales and under the circumstances the net profit on sales of these amounts, or any other amounts, that permitted a company to make a return on the basis in which this one has made a return, to re-cast its financial structure and then earn money on stock for which nothing was paid, then write it off, and at the end not only that but show still a value behind that stock, such earnings under the circumstances are exorbitant. They have a reserve and surplus account of $4,510,696. Now, in the 20 years there has been paid on these bonus securities, call it water or whatever we like, $5,694,608. They have in their reserve and surplus account $4,510,696, and they have the value over and above that that is against the stock that is outstanding. The goodwill is all

written off so that we have these people realizing $10,205,304 on this transfer just from one company to another, in 30 years.

MR. KELLOCK: I would just point out, without interrupting my friend, if my friend is speaking about net profit on sales it makes no difference what your capital is. Net profit on sales has nothing to do whatever with capital.

MR. McRUER: Now, just a moment --

MR. KELLOCK: Net profit on capital is something entirely different, and if my friend is relating net profit on sales to capital, or combining it in the same sense with capital, they have nothing to do with one another at all, because it makes no difference what the capital is, as to what the net profit on sales is.

MR. McRUER: Let us see what my friend says. A net profit on sales that will permit an earning of 5% on capital honestly employed and actually put in the business would be, we will say, one per cent. If you have a net profit on sales of 6% and that is permitting the earning of a large return on watered stock, what I was saying was that net profit of 6% was exorbitant under the circumstances, because I looked at the earnings that it permitted to build up and that it was paying a dividend on this watered stock. That was my point, and has a very definite relation. Now, on page --

THE COMMISSIONER: All the revenues of the company must come out of sales.

MR. McRUER: Yes.

THE COMMISSIONER: Excepting their outside investments.

MR. McRUER: If the revenues are such as to provide for this manner of financing and making returns on that manner of financing then their net profit on sales was exorbitant. That was my point. Now, at page 232 of my brief I have made a calculation showing what the position of this company would be had it not paid these dividends on this watered stock, had it maintained a sound and reasonable basis, and I am starting off with allowing them the profit that they had made up until 1906, that is, the building up of the company from an investment of four hundred and some odd thousand dollars to over two million dollars, that they had built up assets worth that, and I said you have had your dividends and I allow you a return on that, that you have built up in that way, of 7%, and on this page I have calculated what the condition of the company would have been had they proceeded on that sound financial basis instead of erecting on the previous old company one with a framework of common stock for which nothing was paid, and 47% of the preferred stock for which nothing was paid, and we find that they would have had sufficient to have paid off all their bonds outstanding, all the preferred stock for which any money was paid, the little bit of common stock for which they acquired the Anchor Knitting Company, and they would have had the whole plant free of encumbrance, would have paid all their

dividends to everybody, and have $12,245,000. Then my friend comes back and says "study its record of the last ten years and see there, we have had insufficient earnings on the capital employed in this industry". Then, my friend makes his case on the basis that you must keep this up in order to take care of the widows and orphans who may have bought this watered stock. He said it amounts to confiscation if you lower the tariff so as to deprive them of an earning on their investment. That statement was made by Mr. Kellock.

MR. KELLOCK: That is not my language but it is my idea.

MR. McRUER: Well, I have your précise language here in the record. But the people of Canada are all consumers of knit goods. They are all subject to taxation and my friend says if you do not keep the taxes on them then you are going to confiscate a right; he says we have got a right to a dividend on the watered stock that we bought on the market. Well, I think the sooner we get any suggestion of that principle right out of any method of fixation of tariff the better. Nothing could be more unsound than for your lordship to find -- I am sure your lordship will not find -- but just think what would happen in this country if there was a finding that if men manipulate companies by mergers or otherwise so as to provide themselves with a lot of watered stock in turning one company over to another, and they float that stock out on the public, that tariffs must be fixed to give the public a return

on that watered stock, that the people must be taxed for a return. Nothing could be more unsound or more unjust, and I deal with it in respect to the Penman Company only because it is a very clear indication of the principle I say should underlie the whole thing, and that is there should be -- if you have a protective tariff at all it should go no further than to protect an honest investment of money actually made, and that he should not be entitled to more than a reasonable return on that money, and whether he leaves it in or draws it out makes no difference as to the quantum of the reasonable return.

Now, I want to deal now with the differences that we have in regard to the Dominion Textile Company. Now, my friend, Mr. Heward, in the presentation of his argument, of course, naturally took very strong issue with us as to what was the amount invested in the Dominion Textile Company in 1905, and I have contended and still contend that the amount that was invested in the common stock was $500,000. That was regarded by the company as the amount that was invested in common stock up until 1912. The books of the company carried an entry of it, and I think how they had it at the time has a great deal of bearing on what they thought, and what they considered and they entered it as goodwill.

THE COMMISSIONER: As what?

MR. McRUER: As goodwill, and carried it until 1912, $4,500,000 as goodwill.

THE COMMISSIONER: Four million --

MR. McRUER: The difference between the $500,000 actually paid in by the members of the syndicate and the $5,000,000 stock issued, common stock issued, and then there was very considerable bookkeeping done about that time, one way and another, and they made some changes, and now they seek in this argument to say this, that the Dominion Cotton Company had tangible assets over and above the amount of the shares --

MR. HEWARD: Dominion Cotton?

MR. McRUER: Dominion Cotton Company, yes, that is right, amounting to $2,100,000 in round figures.

MR. HEWARD: You mean Dominion Textile?

MR. McRUER: No, Dominion Cotton.

THE COMMISSIONER: That was one of the companies taken over.

MR. McRUER: That was the company taken over by the Dominion Textile Company.

THE COMMISSIONER: That company was no longer operating.

MR. McRUER: No longer operating. Going back to the old company they say "oh, it is true the Dominion Textile Company paid for the Shares of the Dominion Cotton Company"--

MR. HEWARD: I don't think we said that about Dominion Cotton. We said that was the net amount of the excess of the assets for the four constituent companies.

MR. McRUER: It was substantially all Dominion Cotton. It was the net amount of the four constituent

companies, but it was substantially all Dominion Cotton Company, and they say "it is quite true that we brought about a deal, and that the Dominion Textile Company issued securities to the Royal Trust Company who issued them to the shareholders of the Dominion Cotton Company and the Merchants Cotton Company and the Montmorency Cotton Company and the Colonial Bleaching Company, to acquire their shares". "It is quite true we did that but the amount of these securities issued was $2,100,000 less than the assets stood on the books of these constituent companies at the time of the merger".

THE COMMISSIONER: You say they began to take that into consideration only in 1912?

MR. McRUER: 1912 they started doing that, and I don't know -- it is interesting just to go back and see what they said at that time. They argue here to-day that we did not pay the Dominion Cotton Company as much as their stock was worth, that it was worth more than that. It had more than that in fixed assets and therefore, having put through this deal, we are entitled to say that these assets, having been brought into the Dominion Textile Company, we can offset them against stock that was issued to that extent. Now, I have got the Privy Council judgment in the Amyot case, and we find the learned counsel there, which included Mr. Geoffrion, arguing that they paid them everything they were worth, and I am just going to read from the report. It is in 1912 Appeal Cases, page 546, and is entitled Dominion Cotton Mills Company Limited and others and George

Amyot. Now, the report is important in this aspect because my friend has spent some long time seeking to justify that issue of capital stock of five million dollars on the ground of having paid the shareholders less than these assets were worth.

" The respondent plaintiffs, shareholders in the Dominion Cotton Mills Company, sued under the circumstances stated in the judgment of their Lordships, to set aside a lease dated November 10,1905, whereby the said Cotton Company demised to its co-defendants the Dominion Textile Company certain cotton mills and other properties for a term of twenty-one years, being all the mills and properties then in the possession of the Cotton Company; and also a resolution of the same date passed by a majority of the shareholders approving that lease, the Textile Company itself controlling the majority of the shares.

The questions raised by the pleadings and on the appeal were (1) whether the lease was ultra vires and void; (2) whether it was also void because at its date the Textile Company held the majority of the shares in the Cotton Company and because, as alleged by the respondents, the terms of the lease were unfair, amounting to a fraud on the shareholders of the Cotton Company.

Demers J. set aside both lease and resolution.

"He found that the lease was at an undervalue and only explicable on the ground that the Textile Company had the control of the majority of the stock of the Cotton Company."

THE COMMISSIONER: I am asked to restore his judgment.

MR. McRUER: Yes, my lord.

"He held that he was entitled to look at all the circumstances before and after the lease to enable him to decide whether there had been a fraudulent intent. In the result he came to the conclusion that the lease was approved without necessity, not in the interest of the Cotton Company, but in the private interest of the controlling shareholders, i.e., the Textile Company, upon terms ruinous to the other shareholders, in pursuance of a fixed design on the part of the Textile Company to get possession of the business and property of the Cotton Company.

The Court of review affirmed this decision. Charbonneau J. dissented and held that the lease was neither ultra vires nor inequitable as things appeared at the time that it was granted.

The case was twice argued before their Lordships. The first argument was heard in July, 1911.

Sir R. Finlay, K.C., Geoffrion, K.C., and Geoffrey Lawrence, for the appellants, contended that the Cotton Company had authority by its special Act to dispose of its property by the lease in question, which authority extended to the

"whole of its property, and was not limited to a part; see Wilson v. Miers, etc.

The evidence shewed"-- now, this is the argument -- "The evidence shewed the existence of circumstances of such stress that a continuance of the ordinary course of business pursued by the Cotton Company would have resulted in insolvency, and the lease was justified in that it enabled the business of the company to be carried on by lessees, the company receiving a fair rent, which was more than the average annual profits made by the Cotton Company during the preceding eleven years. But its financial condition, the condition of trade, and the competition between the various cotton companies existing at the date of the lease rendered amalgamation a necessity, and the arrangements made were a fair and equitable solution of the difficulties of the situation."

That is what Mr. Geoffrion was arguing at the time.

"The lease was sanctioned by a majority of the shareholders. The evidence failed to shew that they had perpetrated any fraud on the minority. It rather established that the interests of the company were in good faith and effectively considered in the transactions in question."

Then, we come to the judgment of the Judicial Committee. The judgment was delivered by Lord Macnaghten at page 550.

"In 1899 on the appointment of a new manager"-- This is dealing with the Cotton Company.

"--a sum of about $2,000,000 was spent or misspent on machinery. The expenditure was made without the konsent or knowledge of the Bank of Montreal, who were the largest creditors of the Cotton Company. Then application was made to the bank to provide for this expenditure. The manager of the bank was much dissatisfied, and it was a question with the bank whether they would find the money or make the Cotton Company liquidate their bills. Ultimately the bank consented to make the required advance on the company agreeing to issue bonds to the amount of $2,000,000. The bonds were underwritten by the directors and the principal creditors of the company, the Bank of Montreal underwriting for $500,000 and the president of the Cotton Company and his friends for a still larger amount. It was found impossible to dispose of these bonds on the market either in Canada or England. The evidence is that 'nobody would take them'. So the bank consented to carry them for a time. The directors had previously endeavoured to raise money by the issue of preference shares, but they got no support from the general public and very little help from shareholders. Towards the end of 1901 payment of dividends was discontinued. The shares of the company fell to 26 cents."

THE COMMISSIONER: 26 cents?

MR. McRUER: 26 cents. It was asked here what they were at at that time.

THE COMMISSIONER: That is shares having a par

value of $100?

MR. McRUER: One dollar.

THE COMMISSIONER: Oh, a dollar.

MR. McRUER: "The position of affairs was serious. The prospect of dividends was, as the manager of the Bank of Montreal says, 'very remote'. To add to the gravity of the situation ruinous competition was going on in the cotton business. The principal competitors of the Cotton Company were the Merchants Cotton Company, the Montmorency Cotton Mills Company, and the Colonial Bleaching and Printing Company. The CottonCompanies, as Mr. Forget, the late president of the Cotton Company, says, 'were fighting each other for all they were worth.'

In this state of things on December 29,1904, the Royal Trust Company, on behalf of a syndicate formed for the purpose of acquiring capital stock and a controlling influence in the Cotton Company and its three principal competitors, sent a circular to the shareholders in the Cotton Company offering to purchase shares in that company at 50 per cent. of their par value, payable half in 6 per cent. bonds and half in 7 per cent. preference stock of a new company then in course of formation, and afterwards incorporated by letters patent as the Dominion Textile Company. The offer was accompanied by a letter signed by the directors of the Cotton Company stating that they had considered the offer in

"all its bearings and had come to the conclusion that it was a reasonable proposal backed by responsible parties and that they considered its acceptance in the best interests of their shareholders, and adding that they had as individual shareholders accepted the offer and recommended all their shareholders to do the same.

The holders of 24,467 shares in the Cotton Company out of 30,336 shares then outstanding accepted the offer of the Royal Trust Company and transferred their shares accordingly. Those shares were afterwards vested in the Textile Company. The Textile Company also acquired a preponderating influence in the three other companies and thus became in a position to manage the businesses of the four companies as one concern. At first it was arranged that the Textile Company should sell the goods produced in the mills of theCotton Company at a commission which is shewn by evidence to have been a fair and reasonable commission. Afterwards, as a simpler and more convenient mode of conducting the combined business, it was arranged that the Textile Company should take a lease of the Cotton Company's mills, and so the lease of November 10,1905, was executed. It is in respect of this lease that the plaintiffs sue for relief in this action,and the relief as already stated is confined to a claim to have the lease declared null and void. It is difficult to see what legitimate advantage

"the plaintiffs could hope to obtain from the only relief they claimed. The lease if not ultra vires, even though annulled by the Court, was capable of being ratified by the majority, who were of course interested in supporting it.

The principles applicable to cases"-- well, this goes on to deal with the question of the principles applicable on dissentient majorities --

THE COMMISSIONER: Minorities.

MR. McRUER: Minorities, rather. Then, at page 553:

"The next question is: Have the majority abused their powers and deprived the minority of their rights? In their statement of claim the plaintiffs alleged that the lease was the result or outcome of a conspiracy on the part of the syndicate which began by coercing or deluding shareholders in the Cotton Company into parting with their shares at an undervalue".

That was alleged in the statement of claim in this case, and now my friend, Mr. Heward, argues on behalf of the Textile Company that is precisely what they did.

MR. HEWARD: No, if you look at my brief, Mr. McRuer, I say it does not mean that the shareholders got too little for their shares in the then condition of the existing companies.

MR. McRUER: It is the only logical conclusion.

MR. HEWARD: I do not agree with you.

MR. McRUER: "And the learned counsel, with the view, it was said, of throwing light on the

"transaction impeached by the plaintiffs, dwelt at considerable length on the circular of the Royal Trust Company, the recommendation of the directors of the Cotton Company, and the short space of time which the shareholders had to make up their minds whether they would or would not sell their shares at the price offered. But the sale of the company's shares to the Textile Company is not the gist of this action. No complaint apparently, has ever been made by any one of the selling shareholders on the score of undervalue or on any other ground. And the majority of the directors not being members of the syndicate after investigation and consideration accepted the offer of the Royal Trust Company without acquiring or seeking to acquire any interest in the syndicate. No doubt the syndicate hoped and expected to make a good thing out of the venture, and of course they offered the lowest price which in their opinion would tempt a majority of the shareholders to part with their shares. On the other hand it must be borne in mind that unless the venture were successful the security for the price offered would be of comparatively little value.

The plaintiffs have gone into a great deal of evidence for the purpose of shewing that there was a suspicion of some unfair dealing somewhere, and that the lease was granted at an undervalue. In their Lordships' opinion they have not

"succeeded in proving anything of the kind. The bulk of their evidence consists of a collection of directors' reports in past years in which the shareholders were presented with statements that would not bear close examination, and with a view of the position of the company that was over-sanguine if not extravagant. Nor have the plaintiffs, in their Lordships' opinion, succeeded in shewing any oppressive conduct or any want of good faith on the part of the directors of the Textile Company, or the directors of the Cotton Company nominated by the Textile Company, or any individual connected with the management of either of those companies. Oddly enough, in the statement of claim, one of the grievances of the plaintiffs is that they were not given an opportunity of taking part in the scheme which they denounce as a fraudulent conspiracy. The evidence seems to shew that the valuation which the directors of the Cotton Company placed on the assets of that company at the time when the syndicate made their offer was a fair and liberal valuation, that the Cotton Company was then going from bad to worse, that there was no reasonable prospect of any revival of prosperity, and, what is still more important, that the terms of the lease were intended to be fair and are fair."

Now, having that in view it becomes perfectly apparent that the benefit that was derived from the amalgamation of these companies was the intangible one and not the

tangible one, that this asset had an intangible value, and there was no tangible value over and above the amount of the securities that were issued. These people were just given a mortgage on their own property. These shareholders owned the property and these people came along and they said "Dominion Textile will give you a mortgage on that property at 50%, and 85% and 166% of your holdings, and we will take it over and manage it and we will run it, and we will put $500,000 in and get preferred stock along with the rest of you that have preferred stock, and we will put $500,000 in and get common stock", and they have got $5,000,000 in common stock.

Now, this matter was gone into and is of record at another time, before the Cost of Living Committee that I referred to yesterday, and this is what Mr. Daniels has to say about it in —

THE COMMISSIONER: This is 1919?

MR. McRUER: 1919.

THE COMMISSIONER: June, 1919.

MR. McRUER: June, 1919. It is quite clear that he regarded the $5,000,000 as stock that was issued for $500,000 just the same as I did.

THE COMMISSIONER: Whom did you say?

MR. McRUER: I am quoting from Mr. Daniels who was the late general manager of the company, or he was succeeded by Mr. Blair Gordon. Now, this is contained in volume fifty-five of the Journals of the House, and was taken in 1919 and we find it at page 359.

He says that he was general manager of the Dominion Textile Company and gives an outline of their business and then he is asked -- this is by Mr. Pringle --

"Q. You were organized"-- he means Dominion Textile Company --"I understand in 1905? A. Yes.

Q. As the Dominion Textile Company, Limited, and you have a capital stock authorized now of $7,500,000? A. Yes.

Q. And you have outstanding some ~~now~~ $5,000,000?

A. Yes.

Q. And you had a preferred issue of $2,500,000 of which you have outstanding $1,940,600?

A. Yes.

Q. Then you have the bonded indebtedness of the different companies which you control?

A. Yes.

Q. Now what was this capital stock composed of, this common stock, was it stock subscribed or was cash paid for it? A. At the time the company was organized there was half a million dollars in preferred stock issued.

Q. That was subscribed for? A. Yes, by the people who organized the company, for which $500,000 cash was paid. $500,000 was paid for the stock for the $5,000,000 common that was issued.

Q. So that the common stock which was issued amounting to $5,000,000 really cost the amount of the preferred stock, or $500,000? A. No, there was $5,500,000 common and the preferred issue was for $1,000,000."

That is an error there.

THE COMMISSIONER: That is a mistake.

MR.McRUER: "Q. As I understand it for $500,000 you took over the stock of these different companies which you took over subject to the bonded indebtedness of the different companies? A. Yes.

Q. Then what do you say that $5,000,000 represented, that is what I want to get at, whether that $5,000,000 represented actual cash or whether it simply represents the $500,000 which the original incorporators of this company subscribed for in the way of preferred stock, and then they, with that $500,000 took over all the stock of these companies? A. No. They issued $500,000 preferred stock for which they paid $500,000; they also paid $500,000 for $5,000,000 of common stock."

Now, they were not examining any young stripling or anything like that in the business. It was a very very capable general manager. Now, I go to no less a responsible gentleman at page 6,013 of the evidence. This is evidence given by Sir Herbert Holt and again I was examining a man who was in the thing at the start, subscribed one-fifth of the capital, or he subscribed $100,000 rather which would be one-tenth of the capital for the syndicate, and he is a man that is not likely to give evidence in a careless manner, and he was not re-examined by Mr. Geoffrion in regard to it. It was just left as it is here so

I think we may take Sir Herbert as knowing what he was talking about, at line five. Well, I think I better go back to 6012, line 29.

"Q. I say, there is nothing said about the number of common shares the Syndicate was going to get for the $500,000.00?"

Now, I am referring there to the terms of the letter sent out by the Royal Trust Company.

"A. No. When I say 'no', I don't know.

Q. Well, I will give it to you to read over if you have any doubt about that? A. No, I have no doubt.

Q. I have read the only paragraph I can find with reference to that. As a matter of fact, the members of the Syndicate got all the common stock for the $500,000.00, did they not?

A. I think so.

Q. That is all that was issued at that time?

A. Yes.

Q. And the common stock that was issued was $5,000,000.00 of common stock - that is correct?

A. Yes, sir.

Q. And that was issued to the members of the Syndicate? A. Yes.

Q. Your share in the Syndicate, by the way, was $100,000.00? A. I think so.

Q. That would be, of course, one-tenth of the total amount. $1,000,000.00 formed the total Syndicate funds, and for the $100,000.00 you received allotted to you, I see, according to

"the Minute Book, a meeting of the directors held on January 27th, 1905, you received 500 preferred shares and 5000 common shares? A. I suppose so, I cannot recollect.

Q. At page 15 of the Minute Book a list of the allotments of the common stock are shown and your allotment is 5000 shares of common stock. The preferred stock, your agreement was to subscribe for it at par? A. Yes."

Now, we go down to the bottom of page 6014.

Q. Well, our records have shown the names of the members of the Syndicate, the total allotment of the common stock - we proved that the other day. Now, we start off on this common stock that cost the members of this Syndicate $500,000.00 in 1905, by the end of the fiscal year of 31st of March, 1908, they received $250,000.00 in dividends. Just let Sir Herbert have a copy of this and let him follow it."

That is to the secretary, I take it.

"I suppose you are familiar with this little booklet got out by your company? A. Yes.

Q. I do not know whether it has your name on it as vice-president any place."--

Then, at page 6016:

"Q. Yes. Then in the year 1909 $250,000.00 was paid. We may just pause there for a moment to realize that by the 31st of March, 1909, the whole of the investment had been returned in dividends, the whole of the $500,000.00 invested?

"A. Yes.

Q. Then in 1910 there was $250,000.00 paid that year. 1911 $250,000.00 paid for that year - that is correct? A. Yes.

Q. 1912, $250,000.00 paid for that year?

A. Yes, sir.

Q. 1913 the dividend rate was raised and there is $275,000.00 paid for that year? A. Yes.

Q. Now, in this statement up to the end of 1912 it is shown as 5%, 5%, 5% and 5% - that is, 5% on the $5,000,000.00 issue? A. Yes, sir.

Q. But it would represent 50% in each instance on the amount that was invested in this common stock - that is correct? A. I suppose so.

Q. Then we come to the year 1913 and the dividend that year was $275,000.00, which is stated to be 5½% here but would represent 55% on the amount invested? A. Yes sir.

Q. Then 1914 there was another increase and it was up to $300,000.00 this year? A. Yes, sir.

Q. Which would be 60% on amount actually invested in the stock - you agree with that? A. Yes.

Q. Then 1915 $300,000.00, the same rate of 60%. 1916, $300,000.00, same rate of 60%. 1917, $300,000.00 or the same rate of 60%? A. Yes.

Q. Then this published pamphlet appears to have suffered from blushes and from force of modesty published no further statement, but we have the evidence given here on Thursday and Friday of last week that tells us what the dividends are.

"In 1918 the dividend, according to the evidence, was increased to $350,000.00, and you agree with me that would be at the rate of 70% on the amount invested - that is correct? A. Yes, sir.

Q. 1919 it was stepped up again and became $400,000.00 and you agree with me that would be 80% on the amount invested? A. Yes, sir.

Q. 1920 it is $400,000.00, which would again be 80% on the amount invested and then in 1921 the dividend was $500,000.00 - do you recollect the year that it got up to $500,000.00?

A. I do not.

Q. Well, at any rate, you agree with me at that rate it would be 100% on the amount actually invested in the capital stock? A. Yes.

Q. And then 1922 it was raised again and became $600,000.00, and you agree with me that that would be 120% on the amount actually invested?

A. Yes."

Mr. Heward has courageously argued that the profits of this company have been insufficient. From which I take it he is arguing it has had insufficient protection in the past, but Sir Herbert Holt doesn't just regard this investment as an unprofitable one, and one that he would have liked to have had his money in some other place. At page 6019 he is asked:

"Q. Well, you will agree with me that your investment in this Syndicate was a very profitable one?

A. Certainly."

THE COMMISSIONER: Well, we will take a few minutes.

-- The Commission adjourned for a short recess.

(Page 18845 follows)

-- After recess:

Now, I propose to say nothing more in reference to that question as to what was the original investment in the common stock of the Dominion Textile Company. We know this - and it is uncontradicted and cannot be contradicted and that is, that the members of this Syndicate did invest $500,000. That they did get $5,000,000. That they did draw out in 30 years $14,000,000 in dividends and that they did have left- if they had kept their stock in the meantime, and that makes no difference for the purpose of my argument-- they did have left as against the stock, on the company's own record of earnings, a further $14,000,000 in assets. So that is the benefit that accrued to these investors.

MR. HEWARD: Before my friend leaves the 1905 transaction might I introduce just a few words, my lord, in case your lordship got the impression from the records of the bookkeeping of the company at the outset - I think Mr. Glassco gave evidence that it was not a question of one interpretation being put on in 1905 and another in 1912. Actually he said the bookkeeping was faulty and inconsistent and the inconsistencies in the Goodwill Account only became apparent in 1912 when the physical assets of the Dominion Cotton Company, which is the second last company whose physical assets were put into the books after its physical assets were transferred, were first brought into the book of the Dominion Textile Company. I think that is the gist of Mr. ---

MR. McRUER: That is another explanation that has not already been given. We have had such a variety of them and Mr. Glassco, during the course of Mr. Heward's argument, said that this $4,500,000 in good will was carried on the books of the Company until 1912 and I asked Mr. Glassco if that was not correct and he said it was, and that is on record, what is there. Now, we have another explanation on account of faulty bookkeeping.

MR. HEWARD: He used those words "Faulty bookkeeping"in the evidence.

MR. McRUER: If you can show me in the evidence, I have no recollection.

There is one thing I might just comment on and that is - it is a rather extraordinary thing in connection with this inquiry that the regular auditors of this Company are not put forward for to give this evidence instead of Mr. Glassco, who is called in as a stranger just the same as Mr. Howson, to dig through and find out what it is, but the regular auditors have not been put forward and they might have been cross-examined on these things but we have not had them. But the fact is that it is just mathematical gymnastics to attempt to say that that $5,000,000 in common stock was issuedforanything but the $500,000. The Dominion Textile Company put up the securities that acquired the shares. All the Syndicate consisted of was a group of men who put through the transaction and incorporated the Company, got from the Company the securities to pay off the shareholders. They

incurred no liabilities to the shareholders until they had the stock in and had the means which were created by the Dominion Textile Company to pay them and they put in their $500,000 and got the $5,000,000 common stock. Then we have the earnings and I submit that any asset that was against them was an intangible and I am going to deal with that because Mr. Heward has made somewhat of a strong plea that there ought to be tariff protection to provide a return on the value of intangible assets created in this way.

Now then, I have to deal with another matter of principle and that is the statement that is put forward at page 18 of Mr. Heward's brief that the tariff should offer such protection as will enable those proposing to invest new capital in the industry to obtain a fair rate of earnings on the amount of capital which is necessary, at that time, to purchase the assets, fixed and otherwise, required for carrying on the industry.

Now, that is put forward as what the tariff protection should be. Now, relate that to 1906. The earning would be on the capital in the industry necessary to purchase the assets, fixed and otherwise, required for carrying on the industry. Now, the capital that was required ---

THE COMMISSIONER: What page is that?

MR. McRUER: Page 18. The capital that was required in 1906 was the securities that were issued by the Dominion Textile Company to acquire these assets and the $500,000 that was put in for common

stock and the $500,000 that was put in for preferred stock. Now, that is the capital - to put my friend's own test - of what the tariff protection ought to be - the tariff should offer such protection as will enable this proposition to invest new capital in the industry.

THE COMMISSIONER: Now then, "those proposing to invest new capital in the industry," you say here means the members of that syndicate?

MR. McRUER: Yes, they were proposing to invest some new capital and it was what was necessary to obtain ---

THE COMMISSIONER: To enable them.

MR. McRUER: To enable those proposing to invest new capital in the industry to obtain a fair rate of earning on the amount of capital which is necessary, at that time, to purchase the assets, fixed and otherwise, required for carrying on the industry. Now, the capital required, at that time, to purchase the assets, fixed and otherwise, were the securities that were issued, the $500,000 that was put in. Now, it is the earning on that that should be fair and reasonable and then I put it they paid the full interest on the bonds, their obligation, they paid the 7% on the preferred stock and they have paid 98.4% on the additional capital that was required. They have still an earning of $14,000,000 in respect to the additional capital that was required, the $500,000. So when we test it in that way there seems to be no occasion for further commenting on it.

I go back then to say one further word in respect to the calculation I have in my Brief that ---

THE COMMISSIONER: The difference between you and Mr. Heward right there I believe appears to be this- this proposing to introduce new capital in the industry. You say that those in question at that time, the members of this Syndicate, invested this $1,000,000 in the industry?

MR. McRUER: Yes.

THE COMMISSIONER: I think Mr. Heward says: No, that is not it. What they invested in the industry is the value of the assets that they handed over to the Dominion Textile Company as a result of what they got for the $1,000,000. Is not that right?

MR. HEWARD: That is my submission.

THE COMMISSIONER: There is the difference. I am not arguing one way or the other.

MR. McRUER: The point I make is: Mr. Heward puts a value on those assets-not the value they are purchased for but some other value, and I say---

THE COMMISSIONER: He says: While we only paid $1,000,000 to get them in money, by the time we handed them over to the Textile Company they were worth a great deal more than that, on account of the intangibles and other things.

MR. McRUER: That I say is that having regard to the nature of the Tariff protection that you must not allow that sort of thing. You must say:

what would provide you with a fair return as the condition is to-day. You are going to go to work and invest some money and what is going to provide you with a fair return - not on the intangibles or on the new circumstances that you will create by virtue of the deal that you put through but as things are to-day, the money that you put up. But now my friend suggests that my calculation that appears at page 182 of my Brief is fallacious, on two grounds ---

THE COMMISSIONER: Do I understand you properly - you say this calculation on page 182 is fallacious?

MR. McRUER: Mr. Heward says it is fallacious on two grounds. This is based on the calculation of what the position of the Company would have been had it paid 20% on the money actually invested by these members of the Syndicate - a 20% return for 30 years over the whole time, giving them 20% per annum and then turn back the rest into the company and how the company would have stood instead of paying 98.4% to these gentlemen. Now, my friend first says it is fallacious because on the basis that $500,000 was not the sum they invested. Well,---

THE COMMISSIONER: That is in the common stock?

MR. McRUER: In the common stock.

MR. HEWARD: I say that is not what the company received. That is a different thing.

MR. McRUER: All right. That is all they invested and I submit that people ought not to be taxed for more than they invested. Now, it is built

on that basis at any rate and it shows what the position of the Company would have been had they received a 20% return. I think that was not too bad an allowance for them. Then my friend says that it is fallacious in another aspect and that is: That it depends on whether there was or was not over-depreciation and betterments charged to profits. That item your lordship will see is the second last from the bottom, $16,011,356.89. It does not depend on that at all. We have put it in there "Over-depreciation and betterment," charged to profits." You could put it in "Accretion in values" if the language would suit my friend better, for the purpose of this statement. We are not concerned with how the difference was brought about. We are only concerned with the fact that had this Company only paid 20% per annum on that $500,000 invested this is the financial position the Company would be in, taking as a basis the insurance appraisal as being the value of their plant. Now, how the difference is made up I am not concerned with for the purpose of this calculation at all. We start out with this and show the values of their assets at the present time. We show what they would have had on hand, that they would have out of the 98.4%, and that would have amounted to $21,516,654.17, with interest at the rate of 3% per annum. Then they add depreciated value of the buildings now and then we take off the cash paid for subscriptions

for additional stock that had been sold in the meantime and then we deduct the outstanding liabilities and we have that they would have had on hand, after paying everyone off, paying off all the bonds, all the preferred stock, they would have had $46,142,834 in the till - either actually in the till or invested in outside investments or in plants and machinery. So that it would have left a surplus of $21,516,000 in outside investments. And that does not depend any way on how it was earned - whether earned out of profits by accretion of values or anything. That is how it would have been to-day. So that my friend's attack on that statement is pretty weak, I submit. So that the two grounds on which he says it is fallacious I think are fallacious grounds of attack.

So having regard for the manner in which the capital of this company had been built up we find that the returns on the investments for 30 years has been an average return of 9.12%. That is shown on Exhibit 917. So that when we regard how the capital is created and that you have over the period of years a 9.12% return, that is something very substantial. That is on their own figures; that is without any consideration of the other calculations we have put in.

Now, my friend Mr. Heward attempts to ask your lordship to lay down as a basis on which protective tariff ought to be considered the return that would

be allowed to a public utility at a rate-fixing inquiry.

MR. HEWARD: No, I say that the principles there - I ask for a great return than for a public utility.

MR. McRUER: That is fine.

MR. HEWARD: I say the principle, the value of the investment is what counts.

MR. McRUER: My friend says the return that should be allowed to public utility at rate-fixing inquiry is not as great as one that should be allowed to a protected industry. He says at page 18, "In fact, one of the purposes of tariff protection is to encourage the establishment of new undertakings in the industry and thus create domestic competition. It is obvious that the existence of competition and the other hazards inherent in a manufacturing industry greatly increased the risks as compared with non-competitive public utilities. As the risks are greater than in the case of a public utility, the return on the value of the investment should therefore be higher." All right. Now, that is a statement that just makes me dizzy when I start to try to follow it through to its conclusion. He says: "In fact, one of the purposes of tariff protection is to encourage the establishment of new undertakings in the industry and this creates domestic competition."

THE COMMISSIONER: What page is that?

MR. McRUER: That is at the end of page 18.

Now, that says this, if I follow it correctly, we ought to have sufficient protective tariff to encourage new industries starting up.

THE COMMISSIONER: Not new industries, new undertakings in the industry. He says that the purpose - he does not say: The affect is so and so. He says the affect is to establish the encouragement of new undertakings in the industry and this creates domestic competition.

MR. McRUER: He will just suppose we were considering this for the first time and the Finance Minister was going to bring down a protective tariff and he says, "One of my purposes is that this tariff protection should be sufficient to encourage the establishment of new undertakings in the industries as we have here. Now, that will create domestic competition and I must give you higher protection on account of the fact that I have given you enough that I create domestic competition," and you keep going up the ladder. I don't know where you would ever get to the top until you get to prohibition entirely of fulfilling any such purpose. You just get it up so far and that encourages new undertaking in the industry and in they come and that creates competition and that creates a demand for more protection on account of that domestic competition. That is arguing in a circle. Any such grounds for domestic tariff would be very very unsound.

THE COMMISSIONER: Does it mean this: That the

purpose of the tariff being as Mr. Heard says it is, the result will be that there will be so much internal competition that all external competition should be excluded?

MR. McRUER: Well, that could only be the ultimate ---

THE COMMISSIONER: That would be the logical deduction.

MR. McRUER: The ultimate deduction because if you start out with that purpose and then---

THE COMMISSIONER: Because you see the greater the internal competition becomes that means that the greater will be the fall in internal prices and that itself should keep out foreign goods. So why it should fall for more protection I do not see.

MR. McRUER: It says:

> "It is obvious that the existence of competition and the other hazards inherent in a manufacturing industry greatly increase the risks as compared with non-competitive public utilities."

So that you start off with an industry in which there is competition. The argument is you require more protection because of the domestic competition and atthe same time you require more protection in order to create more domestic competition. Now, I am dizzy completely. I am lost. I cannot follow any logic in that argument but that is one that is put forward.

THE COMMISSIONER: Could you explain to me now,

Mr. Heward, where ---

MR. HEWARD: What I was trying to point out there, my lord, is that in manufacturing, with competition there is always more risk and therefore in order to attract capital to it one must be able to offer the inducement of a higher return on the capital than would be the case in a public utility where there is no competition whatsoever. That was the only purpose of that.

MR. McRUER: Oh, no ---

THE COMMISSIONER: I can understand your argument so far but when you say that the very purpose of protective tariff is to bring in competitors, bring them in the country, which therefore must mean question then of prices, you would be competing with each other, which means prices ought to go down - how do you conclude for that reason protection against foreign competition ought to go up?

MR. HEWARD: I say the protection we should have - this was all dealing with the question of return on the investment and should be ---

THE COMMISSIONER: Yes, I know, only insofar as that return can be regulated or assured by protective tariff?

MR. HEWARD: Yes, so that the protective tariff should be such as to give a return which is reasonable to a competitive industry and that people investing capital would naturally expect a higher return than those who put it in a public utility where they have

a fixed return guaranteed to them by the rate and no competition. It does not mean that when the competition gets greater and greater you will go on putting up the protective tariff because it means that the industry has to take its chances on competition and therefore is entitled, as an inducement to capital, to a prospect of a higher return than a public utility.

MR. McQuer: My friend says just in the paragraph above on the same page:

"Tariff protection is intended not only to ensure the survival of those already engaged in the industry, but also to procure the establishment of new undertakings in the industry, and such ventures must therefore be made reasonably attractive for capital."

Now, we have certainly squared the circle.

THE COMMISSIONER: Yes, I can understand that if you were fixing these rates for those ventures as you had fixed rates for public utilities, then you might say fix the rates high enough and we will get competition in. I do not follow yet how, when you come to apply that to tariff protection, the principle works because if you say it is the purpose of tariff protection to bring in enterprises then the higher the protection the more the internal competition is going to grow.

MR. HEWARD: We have always said ---

THE COMMISSIONER: I mean that is the natural result---

MR. HEWARD: In our submission in regard to tariff protection we have always said they should be sufficient to put us on an equal footing with those outside and allowing for a reasonable return, and all I am---

THE COMMISSIONER: I understand all that. You mean reasonable competition, etc.?

MR. HEWARD: Yes.

THE COMMISSIONER: I quite understand all that. This is very different. You begin by saying that the purpose - which means the object - of a tariff is to bring in competitors to you and therefore you say that the tariff should be all the higher. Well, the higher it is the more competitors that are going to be brought in.

MR. HEWARD: If it is made so high that this industry---

THE COMMISSIONER: The more you shut out foreign competition the more you tend to increase domestic competition, and then I would assume if you go so far as to shut out foreign competition entirely well then yourdomestic competition would be very very great, and then you can no longer ask for a tariff to help you because that means has been exhausted. That would be gone.

MR. HEWARD: The point is, my lord, I do not think we asked for a tariff so high that it will shut out external competition.

THE COMMISSIONER: I am not saying that but I

am trying to disengage the one idea from the other. I am then trying to deal with what you are asserting on this page 18, which is a very different thing from the other which you are now discussing.

MR. HEWARD: What I meant, my lord, was this: That we are entitled to a reasonable return.

MR. McRUER: Who is? - Everybody who wants to get it?

MR. HEWARD: No, the people whose capital is to be attracted is entitled to a reasonable return - I say we or anybody else.

THE COMMISSIONER: As we are only dealing here with such help as a tariff can give you I do not really see where all this leads to because, as I say, if you get all the tariff that ~~very well~~ Parliament can give it will be so high that there would not be any outside competition and then inside competition would come to its highest point. It would be 100%. Then that would make your position all the harder. Then what are you going to do? The tariff cannot be expanded any further. What other assurance can you get from the Government?

MR. HEWARD: You cannot. If the tariff was made so high it would shut out any competition from any source it would make it more than my clients in their submission have stated the tariff should be.

THE COMMISSIONER: You think the tariff should not be so high that there would not be some foreign competition. You think it would be a good thing

for the home industry if there was some possibility of foreign competition.

MR. HEWARD: We have always said - what we ask for is to be put on an equal footing having in mind the possibility of ---

THE COMMISSIONER: Do not you also say in the course of your argument that your present protection is not high enough.

MR. HEWARD: I do say that looking on the return of the value of the investment we are not making a reasonable return.

THE COMMISSIONER: If your protection was to be heightened then internal competition would grow.

MR. HEWARD: It might.

THE COMMISSIONER: That would be the purpose of it, to bring new people in.

MR. HEWARD: There is no objection to the industry growing and we must not look at the thing from the point of view of one company. There is no objection to the industry growing properly;if the tariff was put so high that the earnings would be unreasonable then there would be excessive competition probably but if put at the proper figure so that there can be a reasonable return within the ordinary rules as to carrying on business and investment of capital would apply as an industry generally and if there was only a normal profit, then the fact that probably the field was already occupied by both external and internal industries would probably not result

in an excessive expansion of the industry, but I do submit that the tariff should not be static just for the protection of those who are already in there, when its intention is to allow the home industry, if possible, to fill the home needs if they can do it on an equal footing, having in view the differences in the cost of production.

MR. McRUER: Well, my friend says that the tariff should be such as to allow home industries to fill the home needs if they can do it on an equal footing. Well, it would be the tariff that would have to put them on an equal footing. Well, that would simply mean to allow the home industry to fillthe home needs. If every country in the world went on that way then we would not have any trade. but just to further test for a moment what my friend says about competition - that it should be sufficient to attract other industries. Now then, the tariff that existed in 1905 must have, on their own statement, been sufficient to have attracted a great many more industries than were necessary and there was too much domestic competition and they had to amalgamate in order to destroy this competition, and having destroyed it then they have a great tangible asset. Now, whenever we get into that realm of protective tariff to attract industries to Canada we get into a perfect maze of unsound economics - that you will get these mills opened up all over the country under conditions and then they start competing and then

they amalgamate and then they close and this company represented by Mr. Heward is an amalgamation of 17 different companies with mills all over the country, of which 11 I think in different centres have been closed. I am not sure about that being an accurate figure but it is in my Brief. But it comes to one matter that I am a bit at sea yet. After all this inquiry is to know just exactly what the view of the industry is. Is the tariff high enough now to assure the establishment of new industries and assure adequate protection to the industry at the present time? Mr. Heward says it is not, notwithstanding the experience that his company has had over 30 years. They want something more. Well, the results speak for themselves. Should your lordship recommend that it be increased in order to provide a more adequate return on the money that has been already built up in the industry, and a very important thing: Do we want any more cotton industries in Canada? Do we need any more? Well, I am going to deal later at some length on the subject of whether there should be a protective tariff at all.

Now, to dispose of the question that is raised in my friend's, Mr. Heward's brief, and that is with the tests that you should proceed along the line that the cases are proceeded with in fixing rates for public utilities. Now, in the first place, ~~the~~ a public utility derives its franchise from the government and is strongly subject to

governmental regulation as to rate and where it shall go and how it will do business. It gets a franchise from the government and is subject to its definite regulations. It is a monopoly. Any number of companies and individuals may manufacture tariff protected articles. They may come in and they may go out as they desire, but they may charge what prices they like within the realm of competition, no regulation of their prices. A public utility has its rates fixed. Are they to be guaranteed in some manner by the Government by tariff protection all that like to come in? If tariff protection could do it, But I cannot see how it could possibly do it, are they to be guaranteed the same return that a public utility deriving its franchise from the government to give the people a service - and that brings me to a point that a public utility performs a service that can best be performed by a monopoly under government supervision and regulation, without which the consumers would be deprived of the service. That is, the consumers could not have their telephones, their electric lights, their transportation by rail if it were not for the public utility, but the consumers would have their textiles if we had no textile industry. It was suggested that if we had no textile industry a time might come when the consumers of Canada might get pretty cold in the winter-time not being able to get supplies of textiles if we got at war with all the rest of the world.

That we could not get textile supplies from outside, and my friend Mr. Heward put forth the argument that we must protect Canadian industry for fear the people of Canada find themselves at times without textiles. I know it is a cold climate at times to start living like that but at the same time I think it is a rather far-fetched suggestion that we ought to tax the Canadian consumers on the ground of that contingency at any rate. The peril should be much moreimminent than it is at the present time because what the large complaint is that the Canadian consumers have too many opportunities of getting outside textiles, that there are too many willing to supply this market with textiles, and I do not think we had better start in providing a subsidy for this industry on the ground that we may need them some day if we do not need them now.

It is argued that the manufacturers of tariff protected articles provide a service, and that is employment, and it is argued that he should be provided with a return on his investment for that service that he has provided. Now, there are other industries that are not protected that provide employment and provide the service of employment. Our exporting industries provide employment. They provide that service, and now I have come to the question of how far the textile industry is one that really provides any great service to this Dominion outside of the ~~tr~~ returns on the investment that is put into it.

When your lordship raised the point in respect to the value of the textile industry in Canada, what part it played in ourconomic affairs, I had some statistics looked up that are a matter of record to see what part the industry played in the national set-up, and in the table prepared by the Bureau of Statistics in 1931 - and this is the latest one I could get but I fancy for this purpose there is no great change and it certainly is not unjust to the inudstry to use this because it has been claimed that the industry had a greater proportion of employment during the depression than any other industry. Now, on page 8 of this publication ---

MR. KELLOCK: What is the publication?

MR. McRUER: "The Gainfully Employed, Ten Years of Age and Over for Canada and the Provinces." It is a table prepared showing those gainfully employed. Page 8 "percentage distribution of Gainfully Employed with Industry Groups for Canada and the Provinces." Now, we have all industries taken as a 100. That is the percentage. In agriculture the percentage of those gainfully employed are 28.73% of the total. Of the total males 33.86% and the females 3.63%. Now, there is one important thing in regard to these figures and that is that in an industry like agriculture your lordship will see that those gainfully employed are substantially males, so that they provide a living for the females and others connected with

the family; whereas, on the other hand, in the textile industry about 50% of them are females. Now, in manufacturing - that is, all manufacturing - the total gainfully employed, the percentage is 16.8%. That is all manufacturing in Canada. Of emales 15.98% and females 16.57%. So that the females are a little larger percentage than the males. Now, Mr. Kellock in section A, paragraph 6, on page 2 of his brief states that the textile industry employs 11.20% of all engaged in manufacturing.

MR. KELLOCK: That is in 1934.

MR. McRUER: Well, it will probably be a little higher in 1934 than it was in 1931 because this textile industry did not suffer any unemployment like the other industries. That has been put forward on behalf of the industry. So that when I am taking that I am not unfair to the industry. Or that would be 1.8% of the total gainfully employed. So that those that are employed in Canada in the textile industry only amounts to 1.8% of the total of those gainfully ~~m~~ employed. So that when we remember that all the 11,000,000 people of Canada are consumers of textiles we find what a small percentage of the people gainfully employed in Canada are depending on the textile industry for a living.

I intend to deal with this a little further with the break-down among some of the other industries and the exporting industries and so on. Probably convenient to do that tomorrow morning.

-- The Commission adjourned at 5.P.M. to resume Friday, March 19, 1937, at 10.30 A.M.

ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

A.S. Whiteley, Secretary,

ONE HUNDRED AND THIRTY-FOURTH DAY

(Friday, March 19, 1937)

A R G U M E N T

Robert Brydie,
Official Reporter.

ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

A.S. Whiteley, Secretary,

Appearances:

J.C. McRuer, K.C. and E. Beauregard, K.C.	Commission Counsel,
R.L. Kellock, K.C.	For Primary Textile Co.
C.G. Heward, K.C. Aime Geoffrion, K.C. and C.T. Ballantyne,	For Dominion Textile Company.
S.G. Dixon, K.C.	For Courtaulds Limited,
L.A. Forsyth, K.C.	For Canadian Celanese Ltd. and Canadian Silk Products Limited.
Francois Lajoie, K.C.	For Wabasso Cotton Co.
A.S. Bruneau, K.C. and G.A. Campbell, K.C.	For Canadian Cottons,

-- ooo --

Ottawa, Ont.,
March 19th, 1937.

LA COMMISSION REPREND SA SEANCE A 10.30 A.M.

PLAIDOIERIE DE ME BEAUREGARD:

Qu'il plaise à la Commission, au cours de mes remarques lundi dernier, je me suis surtout occupé des relations industrielles parce que la question m'apparaissait d'importance primordiale, à l'ordre du jour. Je me suis ensuite opposé aux questions en y répondant de mon mieux. Je veux maintenant répondre à la question suivante: jusqu'à quel point l'industrie peut être tenue de continuer l'emploi en temps de crise.

Il me semble qu'il y a une autre étude connexe à celle-là, c'est à savoir ce que coûte la protection. Je ne suis pas en état de le dire en détail, je crois que je puis approcher la question seulement de loin. Mais même à cette distance-là la somme que coûte la protection par année est quelque chose de considérable. J'imagine si nous entrons dans ce sujet de la politique nationale nous exigerons vraisemblalement de plus la protection sur une industrie ~~ig~~ d'un caractère plus indigène, moins exotique que celui-là.

Pour savoir ce que coûte la protection nous pouvons nous en rapporter au factum de l'industrie des textiles, sous la section F, page 1.

LE COMMISSAIRE: Quelle est la section?

M. BEAUREGARD: Je crois que c'est la sec-

tion F. Pardon, c'est la section A, qu'il plaise à la Commission, page 1. On y voit, qu'il plaise à la Commission, au paragraphe 2 que la valeur brute de la production de l'industrie en 1934, je comprends, a été de 190 millions. Sur 190 millions la matière première y entre pour ~~92~~ 94 millions. Sur ce 94 millions de matières premières, je ne crois pas être injuste envers l'industrie en disant qu'il y a au moins pour une valeur de 75 millions de dollars de matières premières étrangères. Coton, soie naturelle, et laine.

Autrement dit sur ce chiffre d'une valeur de 190 millions de dollars, il doit y avoir environ, -- et je crois que c'est un chiffre minimum, -- soixante millions d'argent canadien s'en va directement et immédiatement en pays étrangers. Pour une industrie nationale c'est déjà un mauvais point de départ parce que nous considérons comme deux fois avantageuses toute industrie primaire ou autre, particulièrement primaire, qui fait naitre ou fait jaillir du sol l'argent nouveau qui est produit dans le pays.

Ici, c'est simplement le contraire, l'argent que le consommateur gagne ou peut recuillir de toute façon revertit à l'extérieur par l'entremise de cette industrie pour une somme que j'estimerai conservativement à 75 millions de dollars.

Le pourquoi de cette industrie se prouve au ~~même~~ même paragraphe 2: c'est de payer 48 millions de dollars de salaires. C'est ça le pourquoi de l'industrie. On constate que si l'on prend la valeur brute de 190 millions et si on en soustrait 94 mil-

lions de matières avouables premières dont 75 millions que j'attribue à l'étranger, si on soustrait 48 millions de salaire qui est l'objectif même de l'industrie on constate que pour payer 48 millions de salaire aux ouvriers on a dû payer 38 millions dû dollars ~~xxx~~ brute aux patrons.

LE COMMISSAIRE: Non, 48 millions. Si vous additionnez 48 et 94 vous arrivez à 142 et si vous enlevez ce chiffre de 190 il reste 48.

Me BRAUHEGARD: Oui, ça balance . Autrement dit que pour payer 48 millions de salaire le consommateur doit payer en outre un autre 48 millions à l'industrie. Autrement dit 96 millions déboursés par le consommateur donnent 48 millions aux ouvriers, à la main d'oeuvre. A part cela il y a 75 ou 80 millions de dollars qui vont à l'étranger.

On peut suivre cette comparaison là, qu'il plaise à la Cour plus loin quand il s'agit du coton. A la section coton, page 6, section A, on voit là que ~~xxxxxxxx~~ le coton, "yarns and cloth", le filet et les tissus, a une production brute de $61,306,490, que la matière brute première atteint un chiffre de $33,132,480. Sur ce 33 millions de dollars je crois qu'il y en a encore le 3/4 qui sont pour ~~xxx~~ la matière étrangère. Dans tous les cas la valeur nette de la production mentionnée à la page 5 de la section A, a été de $26,195,001, autrement dit c'est ce que le patron a reçu comme valeur nette et le salaire a été je crois de $13,700,000. Laquelle somme comparativement à la valeur nette de la production de 26 millions, peut s'avérer, dit le mémoire à 52.3

p. 100 de la valeur nette de production. Alors, pour donner 13 millions de salaires on a dû donner $26,195,000 à l'industrie. Autrement dit chaque fois qu'on a voulu donner 52.3 cents à l'ouvrier il a fallu donner $1. aux patrons et la différence de 47.7 cents est allé en quelque sorte, en faux frais.

On peut encore considérer encore la question sous un autre aspect. Je crois que nous trouvons dans le même mémoire, deux choses. Une entre autre, que le tarif de protection doit être ce qu'il faut pour suppléer à la différence du salaire, qui entre dans le coût du prix de revient, entre le prix étranger le prix local.

LE COMMISSAIRE: La différence du prix de revient?

M. BEAUREGARD: Oui la différence du prix de revient. On constate, d'autre part, qu'au Japon le salaire est d'environ 2 cents de l'heure. Au Canada, il serait, suivant certaines statistiques, de 29.9 à 30 sous de l'heure, c'est-à-dire que nous aurions une différende de salaire avec le Japon, heure pour heure, de 27 ou 28 cents de l'heure. Si on prend les chiffres de l'industrie on trouve que le salaire au Japon coûte 2 cents de l'heure et que le salaire au Canada coûte de 29 à 30 cents. Il faudrait, j'imagine, ajouter au salaire japonais ce qu'il en coûte pour apporter au pays la marchandise produite par l'ouvrier japonais dans une heure. Cela ne peut pas être j'imagine, autant que le salaire, ce ne doit être qu'une fraction de quelques dixièmes ou au plus pour apporter au Canada la mar-

chandise produite par l'ouvrier japonais et la mettre sur le marché canadien concurrent.

Si ces données que j'emprunte au factum de nos savants amis sont exactes et si la protection est ce qu'elle doit être, l'industrie reçoit donc une protection capable de balancer, de suppléer à cette différence entre les salaires et la protection se trouverait à l'égard du Japon,-d'après nos savants amis, la protection doit toujours être suffisante pour faire face au plus dangereux des adversaires, - pour être adéquate à l'endroit du Japon, le consommateur canadien doit donc de sa poche fournir quelque chose entre 25 et 27 sous par heure de travail pour chaque ouvrier canadien. C'est une forte contribution à imposer aux consommateurs et cette protection est d'autant plus forte que nous venons de constater que le salaire de l'ouvrier canadien dans le cas du coton est de 52.3 cents. Autrement dit que pour mettre 52 sous dans la main de l'ouvrier canadien on doit mettre $1. dans la main du patron industriel. De cette façon chaque sou payé à l'ouvrier canadin coûte 2 sous ou à peu près au consommateur.

Si la protection oblige le consommateur canadien de suppléer le salaire de l'ouvrier canadien qui est disons de 29 sous de l'heure, il est obligé de suppléer dans la proportion de 25 sous en vertu de la protection et si ce 25 sous-là évidemment en coûte 50, la protection est non seulement quelque chose d'exotique mais quelque chose de dispendieux.

Si les chiffres qui ont été puisés chez nos adversaires sont exacts et qu'il démontre que le

consommateur doit payer dans une proportion de 75 ou de 50 p. 100 de plus on constate que nos savants amis n'ont pas beaucoup justifié, comme la Cour les y a invités à plusieurs reprises, le pourquoi de ce grand sacrifice du consommateur. Si le consommateur doit continuer ce sacrifice dans cette mesure-là pour un si grand nombre de millions par année, ne doit-il pas se demander maintenant si ce sacrifice doit toujours être dirigé vers l'industrie textile ou s'il n'y aurait pas une autre industrie plus primaire que l'industrie textile en ceci qu'elle serait plus indigène, qu'elle garderait davantage le nombre de millions fournis par le consommateur comme aide à l'industrie.

A la suite de ces remarques, qu'il plaise à la Cour, qui sont d'une nature bien générale mais qui me semble découler comme d'elles-mêmes des remarques de nos savants amis, je voudrais revenir à la question salaire qui est plus que jamais à l'ordre du jour. Je référerai à un certain mémoire que le secrétaire de la Commission a fait lui-même des remarques de nos savants amis quand il les écoutait parler de la question salaire.

On a dit à plusieurs reprises que le salaire de l'industrie textile est un salaire moyen. Je remarque que cette idée tirée de la pièce 42, page 12, qui est un rapport du bureau des statistiques du travail américain où il est dit ceci concernant les taux de salaire dans les usines de coton.

It is necessary to an understanding of workers' attitudes to point out taht cotton

textile manufacturing, as compared with other manufacturing industries, has been in the past and continues to be a relatively low-wage industry.

Ceci même en présence de M N R A. D'autre part en réponse ` ceux qui ont trouvé que N R A était peut-être hors d'heuvre on trouve au même document sous le titre suivant : Average weekly earndngs Cotton xmax Goods Manufacturing, salaire hebdomadaire, 29, Je comprends que c'est un exemple américain, $15.65 par semaine, soit 32.7 sous de l'heure. En 1930, $14.51 soit 31.9 sous de l'heure ; en 1931, salaire hebdomadaire $13.56, soit 30.4 sous de l'heure; en 1932, salaire hebdomadaire $10.83 par semaine, soit 24 sous de l'heure; en 19 3, pour une semaine, $11.39 soit 28 sous de l'heure; en 1934 $12.59 par semaine soit 37 sous de l'heure.

LE COMMISSAIRE: Les heures alors ont été raccourcies.

M. BEAUREGARD: Oui, je comprends que les heures ont passées à 40 heures par semaine. En 1935, $13.04 par semaine, soit 37.7 sous de l'heure; en 1936, salaire hebdomadaire $13.59 soit 36.7 sous de l'heure . C'est-à-dire qu'après l 'abolition du N R A le salaire moyen serait descendu de 37.8 à 36.7 soit mm 1. 1 sous de l 'heure. Ceci en réponse à certaines statistiques, à certaines remarques, qui prétendaient que la réduction de N R A avait été de 10 p. 100. D'autre part nous voyons ici une réduction plus considérable qui a été indiquée par

Mx

M. Fessenden qui la place à 4/10 p. 100.

LE COMMISSAIRE: Cela arrive à à peu près 4/10 p. 100, la différence entre 37.8 et 36.7. Si vous faites le percentage cela reviendrait à 4/10 p. 100.

ME.BEAUREGARD: C'est à peu près conforme oui.

Nos savants amis pour la section des tapis ont dit que l'industrie textile avait payé 36.28 sou de l'heure. Je crois que c'est un compliment qui a été tiré du rapport de la Commission sur les Ecarts des prix. Il convient de dire que la Commission sur l'Ecart des prix n'avait que les rapports de 1933 et 1934. Comme question de fait la section des tapis, d'après la pièce 1298, n'a pas droit a beaucoup plus d'éloges qu'aucune autre section parce que c'est probablement celle qui a le plus réduit ces gages bien qu'elle soit partie de plus haut et qu'elle soit descendue moins bas. Relativement c'est la section qui apparemment a le plus réduit ses gages. Voici quelques détails:

En 1926, à l'heure, 51.8 cents, salaire de la semaine $22.82; en 1930, à l'heure 50.8 cents salaire de la semaine $25.98; en 1934, à l'heure 40.9 cents salaire de la semaine, $18.02; en ~~1935~~ 1936, à l'heure 41.4 cents, salaire de la semaine $19.53.

Maintenant, les hommes adultes, c'est-à-dire à compter de 21 ans: en 1926, à l'heure, 56.8 cents salaire de la semaine $25.37; en 1930 à l'heure 57.1 cents, salaire de la semaine $18.82; en 1936, à l'heure, 44.3 cents, salaire de la semaine $20.81.

Maintenant, les femmes de toutes catégories:

en 1926, salaire à l'heure 35 sous, salaire de la semaine $14.52; en 1930, à l'heure 32 sous, salaire de la semaine $15.77.

LE COMMISSAIRE: A combien de l'heure?

M. BEAUREGARD: A 32 sous plutot que 35 sous.

LE COMMISSAIRE: Il y avait peut-être plus d'heures.

M. BEAUREGARD: Il doit y avoir beaucoup plus d'heures. En 1934, à l'heure 28.3 sous, salaire de la semaine $12.32 ; en 1936, à l'heure 29.2 sous, salaire de la semaine $13.33.

Maintenant pour les femmes âgées de plus de 18 ans: en 1926, à l'heure 36.1 sous, salaire de la semaine $15.14; en 1930, à l'heure 34.2 sous, salaire de la semaine $15.43; en 1934, à l'heure 28.2 sous, salaire de la semaine $12.42; en 1936, à l'heure 30.4 sous, salaire de la semaine $13.81.

Ce qu'il y a de particulièrement remarquable de la liste que je viens de citer qu'est que le salaire des hommes adultes est tombé de ~~42.1~~ 37.1 sous de l'heure en 1930 a 42.5 sous de l'heure en 1934 alors que pour les femmes adultes, c'est-à-dire âgées de 18 ans et plus les salaires ont baissé de 30.2 sous à 28.4 sous. Le salaire des divers groupes ont baissé de $29.18 à $18.82 pour les hommes et de $16.43 à $12.42 pour les femmes.

Il est vrai que les femmes sont démeurées avec un salaire de $12.42 et ceci est peut-être plus que la moyenne générale dans toute l'industrie, seulement comme nous parlons de l'industrie parti-

cuière du tapis cette baisse est très considérable.

Maintenant, il y a une autre section intéressante, c'est la section du salaire dans l'industrie du coton. J'ai considéré dans Ontario et Québec qu'à l'endroit du salaire minimum des femmes il est évident que depuis que la loi du salaire minimum des femmes a été modifié en 1935 qu'il y avait eu un effort plus considérable pour observer cette deuxième ordonnace de 1935 qui est meilleure que celle de 1934 mais dans laquelle, cependant, on trouve encore quelques points faibles. Dans la province de Québec, d'après les listes de paye qui ont été fournies aux sécrétaires, aucune femme ne devrait recevoir un salaire de moins de 12.5 sous de l'heure mais on trouve qu'il y ~~xxxxxx~~ a .3/10 d'hommes et .1/10 de femmes tandis qu'il n'y a ni hommes ni femmes dans aucun de ces cas dans Ontario. De 12.5 sous à 16.9 sous de l'heure la loi autorise 10 p. 100 de femmes. Il se trouve à y en avoir dans l'industrie du coton, 8.6 d'hommes et 9.2 de femmes, c'est-à-dire qu'il n'y en a pas tout à fait 10 p. 100 comme la loi le tolère, on est en dessous de la tolérance de la loi. Dans Ontario où la même législation existe les hommes à l'étage du 10 p. 100 de tolérance sont dans la proportion de 1. 7 et les femmes dans la proportion de 0.9. Comparativement la situation est plus avantageuse dans la province d'Ontario et on y est donc à une plus grande distance du dernier dégré de tolérance.

Pour le deuxième étage prévu par la loi, de 17 à 21 sous, on n'y doit pas employer plus de 25 p.

e de femmes. Les chiffres indiquent que dans Québec il y a 16.1 d'hommes et 19.7 de femmes; on voit encore qu'il y a moins de femmes que la loi en tolère et, dans Ontario, comparativement il y a 4.4 d'hommes et 5.6 de femmes, c'est environ la même proportion, c'est-à-dire qu'il y a simplement la même différence entre Québec et Ontario dans cette section qu'il y en a pour la section précédente.

Quant à la section de 21 sous et plus, la loi demande qu'au moins 65 p. 100 des femmes reçoivent ce salaire minimum. Dans la province de Québec il y a 75 p. 100 des hommes qui reçoivent plus que ce maximum et il y a 71 p. 100 de femmes quand la loi exige 65 p. 100, c'est-à-dire qu'on est un peu au- dessus des exigences de la loi. Dans Ontario les chiffres sont encore plus favorables, il y 94.9 p. 100 des hommes qui reçoivent plus que 21 sous et 93.5 des femmes qui reçoivent plus que 21 sous de l'heure.

Ce que je viens de donner s'applique à l'ensemble, cependant quand on entre dans les détails on peut voir jusqu'à un certain point qui contribue le plus à créer les chiffres minima de salaire. Voici un autre petit tableau tiré de l'examen particulier de la Montreal Cotton de la Wabasso et de la Trent Cotton. La Montreal Cotton est de Valleyfield, la Wabasso de Trois-Rivières et la Trent Cotton est de Trenton, Ontario.

On y voit que dans la classe gagnant moins de 12. 5 sous de l'heure que ni la province d'Ontario ni la province de Québec tolère, la Montreal Cotton a o.7 p. 100 d'hommes et il n'y a pas de femmes.

C'est-àdire que nous en revenons à cette situation qui fait qu 'on songe à imposer un salaire minimum pour les hommes et on y voit le bien qu'a fait l'ordonnace de 1935.

Au moulin Wabasso on a o.2 p. 100 d'hommes mais d'autre part on a aussi 0.3 p. 100 de femmes, c'est-à-dire que dans une partie c'est mauvais et légal et dans l'autre partie c'est à la fois mauvais et illégal. A la Trent Cotton il n'y a rien de la sorte.

De 12.5 sous à 17 sous de l 'heure la loi prévoit que l'on ne devrait pas employer plus de 10 p. c de femmes. On trouve 5.3 p. c. d'hommes à la Montreal Cotton et 9.7 p.c. de femmes , c'est-à-dire qu'on s'y tient strictement dans les confins de la loi. Au moulin Wabasso on trouve 9.2 p.c. d'hommes mais on y trouve aussi 21.7 de femmes ce qui veut dire qu 'on ne se conforme pas à la loi qui dit qu'il ne doit pas y en avoir plus de 10 p.c., tout de même on y en trouve 21.7 p.c. A la Trent Cotton il n'y a pas d'hommes dans la catégorie de 12.5 sous à 17 sous de l'heure mais il y a 3.9 p.c. de femmes.

Dans la catégorie de 17 à 20 sous de l'heure et dans laquelle on ne doit pas employer plus de 25 p.c. de femmes, la Montreal Cotton a 18.3 d'hommes et 27.7 p.c. de femmes, c'est-à-dire qu'il y a un surplus dans cette catégorie de 2.7 p.c. Les moulins Wabasso emploiant 22.1 p.c. d'hommes et 12.3 p.c. de femmes. Il pourrait y avoir 25 p.c. de femmes mais il y en a que 12.3

p.c. Tandis que dans la catégorie la plus basse où il ne devrait pas y avoir plus de 10 p.c. de femmes il y en a 21 p.c.; c'est simplement la proportion renversée. A la Trent Cotton, dans la même catégorie, il y a 1[illegible].4 p.c. d'hommes contre 49.49 p.c. de femmes. Ce chiffre est à 49 parce qu'on utilisait 3.9 p.c. de la catégorie des 10 p.c. ce qui laisse un 7 p.c. à faire passer dans la catégorie supérieure, mais ici on utilise donc plus que 25 p.c. dans cette catégorie.

Dans la catégorie de 21 sous et plus de l'heure, Québec autorise l'emploi de 65 p.c. des femmes. La Montreal Cotton a 75.7 p.c. d'hommes et 62.6 p.c. de femmes. Il manque des hommes dans cette catégorie. La Wabasso emploie 68.5 p.c. d'hommes et 65.5 p.c. de femmes; il y a un petit excédent dans cette catégorie. La Trent Cotton a 86.6 p.c. d'hommes et 47.1 p.c. de femmes.

On peut croire que cette différence qui existe, particulièrement à la Montreal Cotton, puisse ~~[illegible]~~ venir du travail de l'établissement à la pièce parce que la plupart des ouvriers travaillent à la pièce; Cependant la situation du coton n'est pas la pire; la situation de la soie est encore plus mauvaise. On doit tenir compte cependant que la soie paraît maîtriser son marché d'une façon plus efficace que le coton.

Ici, toujours sur la même base du salaire minimum des femmes qui défend d'en employer à moins de 12.5 sous de l'heure on trouve qu'il y a 9.1 p.c. des hommes qui gagnent moins que 12.5 sous de

l'

l'heure et qu'il y a 2.7 p.c. de femmes dans les mêmes conditions ce qui est illégal. Dans Ontario il y a 0.5 p.c. d'hommes qui gagnent moins que 12.5 sous de l'heure alors qu'il n'y a pas de femmes dans cette condition.

Dans la plus basse catégorie c'est-à-dire celle où sous le salaire minimum on peut employer 10 p.c. de femmes on trouve qu'il y a 15.3 p.c. d'hommes et 17.3 p.c. de femmes dans la province de Québec. Dans Ontario il y a 4.3 p.c. d'hommes contre 1.5 p.c. de femmes.

Dans la catégorie de 17 à 21 sous de l'heure où la loi demande de ne pas employer plus de 25 p.c. de femmes, on trouve qu'il y a 14.9 p.c. d'hommes et 25.3 p.c. de femmes ce qui est approximativement le chiffre de la loi. Dans Ontario il y a 6.40 p.c. d'hommes et 5.9 p.c. de femmes.

Dans la catégorie de 21 sous et plus de l'heure où il doit y avoir au moins 65.p.c. de femmes on trouve qu'il y a 60.7 p.c. d'hommes, ce chiffre me paraît presque le plus frappant. On exige qu'il y est au moins 65 p.c. de femmes qui gagnent plus de 21 sous de l'heure et on trouve qu'il n'y a même pas ce pourcentage mais il y a un pourcentage de 60.7 p.c. d'hommes seulement qui gagnent plus de 21 sous de l'heure alors qu'il devrait y avoir au moins 60 p.c. des employés femmes. Dans la province de Québec alors qu'il doit y avoir 65 p.c. d'employées femmes il n'y en a que 54.7 p.c. Dans Ontario dans la catégorie de 21 sous et au-dessus

l'heure nous trouvons 88.8 p.c. d'hommes et 92.6 p. cent de femmes.

Dans cette section de la soie il faut mentionner, -- et ce n'est pas précisément une mention d'honneur, --les deux plus mauvais cas qui sont vraisemblablement ceux la Associated Textiles et Binns. Il convient peut-être de dire en même temps que ce sont deux compagnies dont la prospérité a été largement démontrée. On y trouve par exemple que en bas de 12.5 sous de l'heure où il ne devrait y avoir aucune femme, la Associated Textile emploie 6.8 p. cent d'hommes et 10.4 p. cent de femmes, ce qui est une forte proportion dans une catégorie où il ne devrait y avoir personne.

On trouve à la Compagnie Binns 42.1 p. cent d'hommes et 6.2 p. cent de femmes. Ce sont des chiffres positivement renversants.

Maintenant, dans la catégorie la plus basse du minimum de 12.5 sous à 17 sous ou ~~simple~~ seulement 10 p. cent de femmes devraient être employées la Associated Textile compte 12.8 p. cent d'hommes et 37.1 p. cent de femmes. Où il devrait y en avoir 10 il y en a 37 et où il devrait y avoir personne il y en a 10.

LE COMMISSAIRE: Que font les autorités provinciales dans ce cas-là ? Voici encore un fait bien flagrant.

MR. BEAUREGARD: Il y a 37.1 p. cent de femmes.

LE COMMISSAIRE: Et la loi en permet 10 p. cent.

M. BEAUREGARD: Oui

LE COMMISSAIRE: Est-ce qu 'on a ~~saini~~ sévi contre ces gens-là?

M. BEAUREGARD: Je n'en ai pas eu connaissance. Je crois que ceci relève de l'inspecteur local.

LE COMMISSAIRE: Est-ce qu 'il peut permettre à aucun de ces gens-la des exceptions à la loi?

M. BEAUREGARD: C'est une infraction à la loi. Sous l 'ancienne loi ?

LE COMMISSAIRE: Parce que si l'inspecteur peut le permettre il n 'y a plus d'inégalité.

M. BEAUREGARD: Sous la loi de 1935 il n'en a plus le droit.

LE COMMISSAIRE: Je comprends cependant que ces chiffres sont basés...

M. BEAUREGARD: Ils sont basés sur le mois de février 1936 et c'était illégal dans le temps.

La compagnie Binz dans cette catégorie de 10 p cent compte 19 p. cent d'hommes et 6.3 p. cent de femmes.

Dans la catégorie de 17 à 21 sous de l 'heure on tolère 25 p. cent de femmes. On trouve que la Associated Textile a 15. 3 p. cent d'hommes et 29.6 p. cent de femmes; c'est encore un excédent beaucoup trop élevé. La Compagnie Binz a dans la même catégorie 13.6 p. cent d'hommes et 26.6 p. cent de femmes ce qui est un excédent de 1.6 p. cent.

Dans la catégorie de 21 sous et au dessus qui doit comprendre 65 p. cent de femmes la Associated Textile compte, -- ce sont les hommes qui sont là, -- 65.1 p. cent d'hommes et 22.9 p.

cent de femmes. Il y manque 40 p. cent des femmes dans cette catégorie. La compagnie Binz au lieu de 65 p. cent de femmes. -- Quant aux hommes elle n'était tenue à rien, -- elle compte 25.3 p. cent d'hommes et 60.9 p. cent de femmes. Il pourrait y avoir une tendance à se rapprocher un peu plus de l'ordonnace.

Le salaire moyen de toutes les femmes employées à la Associated Textile est de 17.2 sous de l'heure alors que les règlements du salaire minimum exigent que le salaire(médium) devrait être de 21 sous de l 'heure. Dans les deux semaines en cause durant le mois de février 1936 il y a 27.7 p. cent d'hommes gagnant moins de $10 par semaine tandis qu'il y a 24.2 p. cent des femmes gagnant moins de $6 par semaine.

Si on veut apprécier ce que je viens de dire on peut maintenant référer aux âges des employés . On a entendu ici et il est dit à deux ou trois endroits dans le mémoire de l'industrie textile que cette industrie pourvoit à de l'emploi pour les jeunes, pour les enfants en attendant le mariage.

L'exhibit 1335 donne des précisions sur les âges des employés dans l'industrie complète à partir de dix ou douze ans si l'on veut jusqu' à vingt ans. On compte 7.23 p. cent d'hommes dans l'industrie entière qui ont moins de 20 ans. Dans le coton il y a 21 p. cent qui ont moins de 20 ans; dans le tricot 18.8 p. cent; dans la soie 18.3 p. cent et dans les étoffes de laine 13.51 p. cent. On trouve que dans toute l 'industrie il y

71 p. cent des employés qui ont moins de 44 ans. Dans le coton ce n'est pas 71 p. cent mais 76.7 p. cent qui ont moins de 44 ans. Il me semble que ceci va directement à l'encontre de plaidoyer qu'on a fait que dans cette industrie on gardait les gens le plus longtemps. Le système de pension ne paraît pas absolument pratique s'il y a 76 p. cent des employés qui ont moins de 44 ans. Dans le tricot 82. p. cent ont moins de 44 ans, dans la soie 87 p. cent et dans les étoffes de laine 69 p. cent. Dans les âges de 20 à 44 ans se trouvent la plus forte proportion des employés.

Les chiffres précédents sont pour les âges des employés masculins. Maintenant quant aux femmes dans toute industrie on compte que la femme de 18 ans est adulte suivant les témoignages qui ont été donnés devant cette Commission. Dans le mémoire de l'industrie des textiles on mentionne les âges de 10 à 18 ans. Il y a 11.82 p. cent des femmes employées dans toute l'industrie qui ont moins de 18 ans. Dans l'industrie du coton il y en a 18.3 p. cent. Dans l'industrie du tricot il y en a 12.69 p. cent, dans la soie 2[illegible].2 p. cent et dans les étoffes de laine 16.72 p. cent. D'autre part on constate que dans l'industrie totale qu'il y a 80.84 p. cent des femmes qui n'ont pas plus de 34 ans c'est-à-dire que la masse des femmes qui travaillent sont en pleine force de l'âge, de 18 à 34 ans.

Dans le coton il y a 89.31 p. cent des femmes qui ont moins de 34 ans, dans le tricot

85. p. cent, dans la soie 94 p. cent et dans les étoffes de laine 83. p. cent.

Alors dans le coton on trouve ~~xxx~~ qu'il y a 89 p. cent des femmes qui ont moins de 34 ans et qu'il y en a 18 p. cent qui n'ont pas 18 ans. Onb voit qu'il y en a 70 p. cent qui ont plus de 18 ans et moins de 34 ans, c'est-à-dire qu'il y a 70 p. cent des femmes qui sont en pleine force de l'âge. Ce sont des considérations qu'il faut avoir à l'esprit quand on considère le salaire qui est payé et quand on songe on même temps aux avantages de la pension. Il est évident que le plus grand nombre de femmes qui travaillent ne sont pas des écolières. On laisse à entendre que c'est un ouvrage pour la ~~xx~~ jeunesse et pour les écolières et que l'on donne du travail aux jeunes en attendant leur mariage. C'est peut-être en attendant le mariage mais apparemment l'âge du mariage pourrait aller au moins jUsqu'à 34 ans.

Je crois que ceci complète les remarques que j'ai à faire.

La page 18891 suit.

(Page 18891 follows)

MR. MCRUER: My lord, there is a correction that I wish to make in respect to what was said regarding the table that appears at page 370 of my brief. I want to make it now for fear we overlook it; and the same thing was said with regard to the figures that appear on exhibit 917, that is one of Mr. Howson's statements. It was said that these figures were not the revised figures in respect to the inventory reserve or the under valuation of inventory of the Canadian Cottons, but on further investigation we find that they are the revised figures and the latest ones that we have. Exhibit 1228 was a revised statement put in by Mr. Brown, and those are the figures that are now used in exhibit 917 and in my brief. We have nothing in evidence that changes this.

THE COMMISSIONER: Well, these figures then, are final; they are definite?

MR. MCRUER: They are final as far as we know. If there are other changes we do not know of them, at any rate. They are the final figures. I was under the impression first -- Mr. Brown gave us the statement with regard to certain figures that Mr. Shephard went over them with him, but there were certain corrections. I had thought that was after Mr. Howson had compiled 917, but I find that 917 embodies those corrected figures. Mr. Howson tells me that what I say is not strictly accurate, that Mr. Shephard and Mr. Brown largely went over the figures that are contained in exhibit 1228.

THE COMMISSIONER: Those are the figures here?

MR. MCRUER: Yes. But there has been since some slight revision of the figures, but it has not been put in evidence.

THE COMMISSIONER: Well, you might just change them.

MR. MCRUER: Could not we have the result of Mr. Shelphard's --

THE COMMISSIONER: That is, if there is no objection.

MR. MCRUER: I think that is what Mr. Bruneau suggested should be done. I think we had better have attached to 1228 a memorandum which sets out the revision made by Mr. Shephard and Mr. Brown, and your lordship might just make a note on page 370 of my brief, "See revised statement attached to exhibit 1228".

I had intended, as I intimated last night, to proceed this morning to discuss generally the subject of whether a protective tariff for the textile industry was justified, and the effect of a protective tariff on the country generally. I would prefer to postpone that until I have dealt with some other matters that I think can be more conveniently dealt with. And I have a number of exhibits, dealing with the external trade of Canada, prepared by Mr. Hooper, that have just been made ready and I have just been able to furnish my friends with them this morning, so I will postpone my

discussion of them for a little while -- not too long, I hope.

I wish to proceed to deal further with the arguments of Mr. Heward and Mr. Kellock in regard to the sufficiency of the protective tariff that they have had, and leaving outside of consideration at the moment whether theprinciple of protective tariff is the right one for Canada or not; in regard to the textile industry, to accept for this argument the principle of protection; then, what should it be, or has it been excessive? I do not know that anyone can solve the problem of what it should be, but it has been excessive in the past. At page 17,591 of the evidence Mr. Heward --

THE COMMISSIONER: We have got that far, have we?

MR. MCRUER: That was some time ago, when Mr. Heward was arguing.

THE COMMISSIONER: This is argument.

MR. MCRUER: We will soon have as much argument as evidence.

MR. HEWARD: Puts forward this principle:

" The Commissioner: You are talking of the position to-day in Canada; that is what we are talking about, and having our eyes on the future. You say that the tariff should be so that it would encourage new investment in Canada in the textile industry. If you want to take that responsibility, alright.

" Mr. Heward: Yes, I am taking that responsibility, my lord. I think the ideal thing for this country is to have it producing -- that all the goods that it needs are produced by its own labour.

The Commissioner: All the goods itneeds?

Mr. Heward: All the goods it needs.

The Commissioner: I suppose that would apply to every other country, too.

Mr. Heward: It might.

The Commissioner: We would all be living in a hot house."

That is one view put forward in respect to this textile industry, at any rate, and I suppose that if it is to apply to the textile industry it should apply to every other, because there is nothing particular about the textile industry that is indigeneous to Canada.

Mr. Kellock puts forward another argument on behalf of the industry, at page 17,398. He was discussing and justifying the action that was taken by Mr. Hallam to spread a bit of propaganda that would discourage industries wishing to locate here, -- silk industries in that case.

" Mr. Kellock: I say it was an effort to advise anybody proposing to do such a thing so they would know exactly what the situation was, and I am quite satisfied, and I do argue, that at that time it was not in the interests,

"at that time, of the public in Canada that new mills should be established when the existing mills had greater facilities than were necessary to meet production."

That is that if the existing mills had the facilities to meet production then it was not in the interests of Canada to have any more.

" Mr. McRuer: Whether it was in the interests of the public or not, you agree with me it was an effort to keep new mills from coming into Canada, and you justify it on the ground it was alright. That is a different question, but I say you agree with my contention it was an effort to keep new mills from coming into Canada?"

" Mr. Kellock: It was an effort to advise anybody proposing to establish what the situation was and I argue --

Mr. McRuer: What are they wanting to look after them for?

Mr. Kellock: I submit to his lordship it was in the interests of nobody that additional machinery should be established at that time.

Mr. McRuer: We have the record of the mills that were here, but I just want to know whether you are challenging my submission that it was an effort to keep new mills from coming into Canada?

" Mr. Kellock: Certainly it was, and a perfectly justifiable effort in the interests of everybody at that time.

Mr. McRuer; Well, I will answer that. " Now just look at what isput forward by the industry now. One argument is that we should have everything manufactured in Canada that we can produce: the other argument is, on behalf of the other counsel, was if we have the capacity to produce the articles here other mills ought not to beme in.

THE COMMISSIONER: On the first glanch at what you said, the argument is that we should produce in Canada everything that we need, not that we can produce.

MR. HEWARD: That would be the ideal.

MR. McRUER: That would be the ideal, no doubt, to which the industry would work. Then Mr. Kellock said that if the mills that are here have the capacity to produce everything that we need, then we do not want any more.

MR. KELLOCK: Well, that condition exists.

THE COMMISSIONER: Do not those two propositions follow each other? Mr.Heward says we should produce in Canada everything we need, and Mr. Kellock says that is what we are doing now; therefore there is no room for anything else.

MR. KELLOCK: Only to a very limited extent, and a temporary condition, my lord.

MR. MCRUER: The situation as it was at this time when they were writing these letters, when they were trying to keep them out.

MR. KELLOCK: What was the time?

MR. MCRUER: 1934.

MR. KELLOCK: And you are sure that is the letter I was speaking about at the time, are you?

MR. MCRUER: Yes, it was 1933 and 1934.

MR. KELLOCK: Well, there were several times I spoke about.

MR. MCRUER: I do not care whether it was 1933 or 1934 or 1935. You can have any one of those dates, and that is both before and after and at the time of writing the letter.

MR. KELLOCK: No, just at the time of writing the letter, I am speaking about. The case I was speaking about was a temporary condition only.

MR. MCRUER: We will see just what the condition was, in a moment. My friend justifies it on the ground of an address of the president on June 2nd, 1934. He justifies it on a further statement made on the 12th July, 1935, and we were dealing with a news release of the 25th February, 1935.

THE COMMISSIONER: These things had to do with silks, had they not?

MR. MCRUER: Yes, my lord. To-day my friend extends his justification for this news release over the period of 1934 and 1935.

MR. KELLOCK: No, no. The letter that was spoken of -- my friend recalls it to me, my lord -- was in February of 1935, and I referred to the address of the president at the preceding annual meeting, which was June 1934.

THE COMMISSIONER: What president?

MR. KELLOCK: The president of the Silk Association, to show that the letter of February, 1935, was justified, so I was speaking of February, 1935.

MR. McRUER: But my friend reads into the record the address of the president, stating that there is over-production and over-expansion of the industry in June 1934. This news release -- and there were two of them; it is not a case of just one -- was sent out in February, 1935, warning people against the bad conditions in Canada, and my friend's contention was that competition should be kept out of the field. And now I am going to turn to the earning record on the statements of these companies over those years, just to show where this proposition would lead, if allowed to become a principle of fixation of protective tariff. When we look at exhibit 916, we find that in the silk division of all the companies reporting to the commission, taken on the average, in the year 1934 they made a net profit from operations on capital employed in the industry of 9.5 per cent.

MR. KELLOCK: That is on the basis of your

figures.

MR. MCRUER: On the basis of these correct figures. That is the profit on the capital employed in the industry, the money that was used in the industry.

MR. KELLOCK: On one day.

MR. MCRUER: Not on one day. If my friend is going to continually put a machine gunbarrage on me by arguing or re-arguing what he has already argued, I will be here all next week.

THE COMMISSIONER: I am afraid you will be talking to an empty chair.

MR. KELLOCK: I would like to be able to take that position.

MR. MCRUER: Well, take it any time you wish.

MR. KELLOCK: It would relieve me greatly.

MR. MCRUER: In 1933, the earnings on the capital employed -- and that, my friend Mr. Heward says, is the correct way to do it, not on the common stock equity, as my friend Mr. Kellock would have it -- is 9.5 per cent on the all silk industry. In 1934 it was 9.2, in 1935 it was 8 per cent. Now these people were making on all the capital in the industry, on all the ill managed and good managed plants, taken together, 9.2 per cent and 8 per cent on their returns, and they say, " Leave this field to us; let us occupy it and let us keep everyone out." They say they were justified at that time in having the exclusive field. Now let us take some of the individual companies, the more enterprising and well managed ones

probably: let us take the company of the man who engaged in the correspondence, Mr. Marx -- the Associated Textiles, and see what his company did in 1935. First, in 1933, we have the earnings in that depressing year on capital employed in the industry; they were 17.7 per cent. No wonder Mr. Marx didn't want others in the industry coming from the United States. In 1934 it was 11.10 per cent, in 1935 it was 9.32 per cent. That is the net profit after income taxes on capital employed. The others are on sales. In 1931 it had been 15.34 per cent and in 1932 16.52 per cent. The Brock Silk Mills, earnings on capital employed: 1933, 15.6; 1934, 13.6; 1935, 11.4. Grouts' Ltd., 1933, 8.7 per cent; 1934, 6.2 per cent; 1935, 8.2 per cent.

(Page 18800 follows)

That, therefore, does not show us the soundness of any source of policy of giving the exclusive field to the Canadian industry and saying, "You shall have it but you shall have only a moderate profit." That would mean some sort of extensive board of regulation in order to protect the consumers, because what these people say they need is not the criterion. Here they were saying that they did not want other people in this field because their profits were such that they needed it for themselves.

We have the machinery here, they say and we have the profits, and that would seem to me to leave room for a little competition.

Mr. Heward has put forward a novel argument, and I do not know on exactly what principle he bases it. For my part I am only trying to deal with principles in my reply. At page 17594 he says:

> "What I submit is that tariff protection is not only intended to insure the survival of those engaged in the industry now, but to procure the establishment of new industry, and you have got to encourage capital to do that."

That is the same point that you disdussed yesterday. At page 17598 he puts it in a somwhat different way. He says:

> "We have been induced to invest, and have acquired an investment of considerable value, and if we are not protected that

"investment will be lost to us except as scrap. I have assumed that was one of the ultimate purposes of the tariff, to encourage any industry which it is protecting to expand and give more employment to the country, and buy more supplies, and the other advantages which the existence of an industry in any community or country implies."

At page 17599 he says:

"The COMMISSIONER: It would get to the 100 per cent, to what you seem to considerable a desirable thing."

That is, 100 per cent of the trade of Canada.

"Mr. HEWARD: No, I think to keep the existing companies healthy and efficient ~~there~~ there must be the threat of new companies entering the field."

We come back to what he discussed yesterday, namely the point that the tariff must be sufficient to keep the threat of new companies coming in in order to keep the old companies healthy. I suggest that if we are to have a protective tariff at all it had better be low enough so that the threat would come from competition from outside, rather than have it high enough so that you must have the threat from inside. Mr. Kellock for instance says that we have too many companies inside the tariff wall; therefore these companies must be permitted to get together and agree on price maintenance and production and

artificial restraint of competition in order that they may show a reasonable profit to their shareholders. And if you get so many inside the tariff wall that they show red figures on the balance sheet, then that justifies price maintenance agreements. Again we are dizzy and at sea in regard to these theories that are put forward.

I wish to deal now with somethings that are specifically put forward in certain arguments. They are specifically put forward in connection with one or two of the exhibits and first, I would refer to Exhibit 1232. Mr. Heward dwelt at some length on what is shown in Exhibit 1232, which is a statement with respect to the affairs of the Dominion Textile Company, particularly at page 5. In respect of this statement there are certain things that we definitely disggree on and which are vital in any calculation of adjusted earnings to the indicated value of the investment.

We start off with the first column which is Total Invested Capital on Cost Basis.

The COMMISSIONER: Was there a question there of the inclusion of bonds in that ?

Mr. HEWARD: Not in this one, my Lord.

Mr. McRUER: But it does include the $2,100,000, the value of the fixed assets of the companies that were taken into the Dominion Textile Company.

The COMMISSIONER: Their old book value.

Mr. McRUER: Yes. That is not included in the

$9,887,000, and we are in disagreement in regard to that. In the next column the first figure is $9,937,219.03, and that includes $7,500,000, The write-up or inflation of asset values put on the books by reason of the 1920 appraisal.

The COMMISSIONER: You say that this figure $9,887,000 includes what ?

Mr. McRUER: $2,100,000.

The COMMISSIONER: No, that is the first figure. The total invested capital, cost basis, is $9,887,000. and that is where you find included the $2,100,000, and then you went on to take the second figure, and what do you say that includes ?

Mr. McRUER: The $7,500,000 which was put on the books as a result of inflation in values as shown by the 1920 appraisal.

The COMMISSIONER: Then the increase, according to you, should be about $2,000,000 instead of $9,837,000 ?

Mr. McRUER: There should not be any; I am not through with that part of it yet.

The COMMISSIONER: Oh, you have not demolished it.

Mr. McRUER: No, not yet. It includes $2,000,000 odd of goodwill, and that item ought to go out altogether.

The COMMISSIONER: The first thing included is the $7,500,000.

Mr. McRUER: Yes, put on the books as the result

of the 1920 appraisal, and the $2,337,000.03 for good will. I am not through with the increase yet. I say, therefore, that the whole basis of this statement is unsound; it is unsound from top to bottom, and when they come forward and present these earnings--

The COMMISSIONER: That is all run into the next column.

Mr. McRUER: Yes. That comes off and the ratio is all altered all the way through. That is apart entirely from my argument yesterday when I dealt with Penmans. The reserves and surpluses that were built up were built up after the payment of 98.4 per cent returned on that invested capital, and they were built up after paying an excessive return on invested capital, and therefore ought not to be taken into consideration as part of the capital for the purpose of showing what earning the company should have, in the tariff inquiry in respect of a protective tariff.

If they were engaged in an arbitration where the company was being expropriated, it would be all very well to put these things through as loss to the company. But when you are considering the benefits the company has derived from the public under a protective tariff then it is not the way to study the question.

Just to take that right up in 1920, they start off with the accretion in values and then they do not deduct it after the decrease, but they say, "You must give us a return; this is our earning on the

inflated value of the investment, whether it was to due to depreciation and repairs, or depreciation being written off and betterments being charged to profits, or whether it was due to accretion in plant values." In 1920 they said, "Give us a return on the value at this time", but they did not deduct from year to year the decline in plant values. That cannot be sound.

We have already dealt with the year 1933 and put that year in at a loss, when in fact they made a profit but transferred a million dollars to look after some investments which I submit, when the stock markets are coming back pretty well, is not a fair statement of the earnings of the company. I do not think I have brought forward anything in this inquiry that gives a picture of that sort in regard to an industry. Imagine what my friends Mr. Kellock and Mr. Neward would say if I had brought forward a statement that showed an inflation, and there had been a decrease afterwards, and put it in without allowing the decrease that was going to the benefit of the company. If I had done that I would have been abused a good deal. Mr. Glassco has not said that between 1920 and 1936 there were no profits takenin and secreted in that plant and equipment, and he would not say that. I will deal with the 1936 appraisal in a moment and everything said about it. In addition to that, this statement does not give credit for the undervaluation of inventory;

that is left out altogether. It does not take into consideration whether there was excessive depreciation of plant from 1920 to 1926, and I have dealt with the million dollars in 1933.

Now, Mr. Heward contends that there is no evidence of excessive depreciation or of charges to repairs of betterments. I want to look at Exhibit 329 and Exhibit 933. Mr. Heward did not refer to what the company had said themselves in their own statement published as late as March 31, 1925, in regard to this question of more depreciation being taken than was necessary and the plant being kept up in a good state of repair. In Exhibit 329, page 15, the company states:

> "Over a period of fifteen years the physical assets required in 1905, and worth approximately $11,000,000 at that time, had been doubled in value through a steady program of yearly replacements and betterments combined with the natural appreciation in values of all kinds between 1905 and 1920."

So that they say there that they had been doubled in value.

The COMMISSIONER: In fifteen years.

Mr. McRUER: Yes.

The COMMISSIONER: That is, taking all the machinery.

Mr. McRUER: Yes, My Lord.

The COMMISSIONER: What would be the life time ?

Mr. McRUER: We have evidence that the lifetime of a card if forty years. Perhaps I should read the paragraph that goes before:

"This reogranization in 1922 was thoroughly justified by the condition of the company at that time. The market value of the old $100 par value shares had risen to over $200 per share, which rendered them unwieldy for trading purposes, and unsuited to the portfolios of the small investors who constitute such a large proportion of the ownership of the company. (See Schedule #5 on page 16 for details of stock ownership, preferred and common.) Further more, there was no representation on the balance sheet of the real value of the company's physical assets which an appriasl in 1920 had established at $22,918,033.32 net depreciated value.

Over a period of fifteen years, the physical assets required in 1905, and worth approximately $11,000,000 at that time, had been doubled in value through a steady program of yearly replacements and betterments, combined with the natural appreiciation in values of all kinds between 1905 and 1920."

The COMMISSIONER: You say that these yearly replacements and betterments were taken out of earnings?

Mr. McRUER: Yes, that is how they doubled the

value of the plant.

Mr. HEWARD: During that period no regular depreciation was set aside.

Mr. McRUER: That makes no difference, if the earnings are sufficient and you reconstitute your plant and it is worth twice as much as before.

"The last balance sheet of the original company, March 31, 1923, showed the land, buildings and machinery at a net value of $13,003,120.42. The first balance sheet of the new 1922 company, March 31, 1924, carried these fixed assets at $20,178,023.65, giving closer effect to the actual appraisal values represented in the company's holdings of land, buildings and machinery.

It is not difficult to trace the step by step building up of additional values. The company's balance sheet as at March 31, 1924, shows that $5,390,002.90 had been put back into the company through reinvested profits, the greater part of which would naturally be represented in additions to plant and equipment. It is important to point out that these profits were arrived at only after full provision was made out of earnings for depreciation and obsolescence of plant and machinery. The effective depreciation written off over the period to 1924 amounted to $9,400,156.43, which was more than sufficient to take care

"of actual wear and tear and to cover as well capital losses amounting to $540,895.85, incurred in disposing of certain unprofitable units of the old Dominion Cotton Mills Company Limited, where manufacturing operations were discontinued. Over the same period, the company had followed a policy of keeping its physical properties in the best possible state of repair, and had spent $6,926,746.40 in repairs to buildings and machinery. The new set-up in 1923 only served to give recognition to the true position of the company, and it was in no sense the means of introducing "water" into the company's capital structure."

That is one place where there is evidence of excessive depreciation.

-- The COMMISSIONER: We will adjourn now.

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-- The Commission adjourned at 12.30 p.m. to resume at 2.30 p.m.

-- The Commission resumed at 2.30 p.m.

Mr. McRUER: When we adjourned I was discussing Mr. Heward's suggestion that there had been no evidence to show that there were excessive charges for repairs, betterments and over-depreciation.

The COMMISSIONER: Before the adjournment you read a long extract. Was that from a presidential address?

Mr. McRUER: No, My Lord. That was from a booklet published by the Dominion Textile Company.

The COMMISSIONER: What was the date?

Mr. McRUER: It was published in 1935. I have been looking up the evidence given by Mr. Daniels before the committee of the House of Commons in 1919, which Your Lordship will find in volume 55 of the Journals of the House of Commons.

The COMMISSIONER: He was then general manager of the Dominion Textile Company.

Mr. McRUER: Yes. This was before the appraisal had been made. He was examined by Mr. Pringle, and I would quote from his evidence at page 375:

"Q. Then in your statement as I was pointing out to you just now you were giving me an explanation of your depreciation. Your statement shows land, building, machines, and good will $12,400,000. Then you deduct from that $4,500,000 for good will representing this common stock that is not paid. A. Well, part of it will be located in another form; 4 1-2 million does not stand on our books as good will.

Q. It may not stand on your books, but that is what it really is. A. Now, there were

"alterations there that we effected and we cannot tell you just what the amount of good will on our books is, but it is not to that extent.

Q. What portion of this $12,000,000 is machinery and land? A. I can tell you what the replacement value is.

Q. I do not want that; I want the actual value. A. Permit me to say that the replacement value in 1914 was approximately $14,000,000.

Q. That is made up of what of the original cost plus the additional cost of improvements? A. That was the actual appraisal made in 1914.

Q. Who appraised it ? A. The Canadian Appraisal Company.

Q. Was it made for the purpose of this transaction ? A. No.

Q. For the purpose of your own information? A. For our own information made at that time."

Now we come to the part of the answer that is important to the subject matter I am dealing with.

"We have never added a dollar to capital expenditure since the company was organized in 1905. Year by year we have been improving and increasing the plant, and the value of it got far beyond what was showing on our books. We considered it advisable to have an appraisal made, which was done."

So that they say they had beenimproving and increasing their plant but had not added a dollar of capital expenditure since 1905. I say again that had the regular auditors of the company, who were all acquainted with the company's business, come to give

evidence as to whether or not there had been excessive depreciation, and had they been exposed to cross-examination, we might have got some more information than we obtained from Mr. Glassco, who knew no more about it than Mr. Howson did when he went to analyze their books--I mean he got no more information. It would have been much more informative if we had had the regular officers of the company. At any rate, that is what Mr. Daniels said about it.

We have on record some more evidence that shows the character of the charges that were made over the period since 1920. Mr. Daniles delat with it up to 1919 and Mr. Howson made inquiries in reference to the charges of this character that had been made against profits. There are certain letters attached to Exhibit 933, which is a return of the Dominion Textile Company and the first is dated November, 13, 1936. It is a letter from the Dominion Textile Company over the signature of Mr. E G. W. Gordon and is addressed to Mr. Howson's firm. The first paragraph reads:

> "We realize that the time is drawing near when you will need all the information requested from us and that, up to date, we have not given you the explanation of the repair dharges at certain mills in certain years, where you suggested it would be advisable in our own interests to furnishyou with further detail. As indicated in my letter to Mr. Howson last week (Oct.30th),

"we have been applying ourselves to tracing the repair work in question. It has not been very difficult to learn from the memory of our officials and by reference to our general records, the nature of the jobs that took place, but the real trouble is to go through the repair accounts at each mill and identify the bills passed with the prticular jobs. We now have the various mill offices concerned searching their files for the bills passed in each connection. However, as time is short, I will give you the story of the various jobs, etc., now, and will follow up with the estimated amounts as soon as possible.

Merchants Mill 1921, 1922, & 1924.

In 1921 the former boiler house and economizer room was repaired to make it fit for use as a warehouse. Considerable rearrangement of card room machinery was also carried out.

In 1922 an air washing system was installed in No. 1 and No. 2 mills."

The installation of that air washing system does not constitute a repair job. It is a new system that makes the plant more valuable.

The COMMISSIONER: Does it say how much ~~in~~ it cost ?

Mr. McRUER: No. There is a subsequent letter that gives the cost.

"In 1924, 74 spinning frames were repaired, and looms in the weave room were rearranged. A

"complete new installation ofopening and picking machinery also necessitated several attendant structural alterations, repairing of floors, etc.

Hochelaga Mill - 1920 & 1926

1920 - Extensive re-roofing job was carried out on No. 1, No. 2 and No. 3 mills, and a cornice was removed at the same time.

1926 - R Looms overhauled; electrical transformers and accessory equipment transferred to new transformer house."

If you make provision for depreciation on your roof and then take reroofing out of profits you have a double charge on profits.

"Magog Cotton Mill - 1920 and 1921

Change over from direct water wheel drive to motor drive. Old water wheel system abandoned. Machinery in card and spinning rooms rearranged."

Surely depreciation and obsolescence charges take care of the system when it is completed.

"Magog Print Works - 1924 & 1927.

1924 - Khaki dyeing range completely overhauled. Roofing job done on all dyehouses. Floor and sewer job in all dyehouses. Sulphur navy range overhauled.

1927 - New bleachery built and print room extended, involving many rearrangements in other parts of the plant. Former bleachery converted to open soaper room, and maqhinery rearranged

"in several other departments to bring about better handling and routing of goods in process.

Montmorency Mill - 1922

This plant, owing to its size and the complexity and diversity of the operations carried on, is in an almost perpetual state of change in one or more departments. We have no record of any outstanding jobs in 1922, but it is quite possible that more than a normal amount of rearrangements were effected in that one year.

Mount Royal Mill - 1922, 1923 & 1926.

1922 & 1923 - Lighting system rearranged in No. 2, No. 3 and No. 4 weave rooms, third floor card room, and both spinning rooms. Card room machinery layout changed, and cards overhauled. Picker room machinery layout changed, and pickers overhauled.

1926 - Rearrangement of weaving rooms - looms overhauled. New floor laid over greater part of lower weave room. Group or speeders moved from second floor to fifth floor."

When you go in for extensive overhauling of machinery that is certainly depreciation, but when you come to a new floor laid over the greater part of the weave room, there is no question that when the floor is worn out you have enough money on the life of the floor to put in a new one. The letter goes on:

"We do not intend to convey to you through

"the foregoing that the jobs enumerated by any means ~~xxx~~ make up the major part of the repair account in the particular years specified, but simply that, so far as we have been able to trace back, these jobs probably account for the larger than normal amount charged to repairs in those years.

The changing conditions each year in our industry call for a good deal of adjustment on our part; and where such a large proportion of our investment is represented in buildings and machinery it is, perhaps, only logical to find very substantial amounts being spent in that connection each year apart from straight additions to buildings and machinery on capital account.

We will follow this up with monetary figures as soon as they are ready."

The COMMISSIONER: They say that these jobs probably account for more than the normal amount charged up to repairs in those years.

Mr. McRUER: Yes. We have no information available with regard to any expenditures since 1926. The next letter is dated November 10,1936 and is addressed to Mr. Howson, in care of the Royal Commission on the textile industry. I will read the second paragraph:

"Before dealing with the figures for individual mills, we should perhaps mention

"certain factors which have a bearing on the repair figures, in earlier as compared with later years. We find that no equipment account was carried in the company's books in the years 1920 and 1921 and prior years. At some mills, even up to 1926, items, which in later years were charged to equipment account were then charged to repairs. We have not been able to pick out of the repair account the items which year by year should really have been charged to equipment account, but we think it reasonable to assume that they may have amounted to a substantial figure, more particularly as considerable replacement of equipment was required following the years of intensive production during, and immediately after the war. For example, Merchants mill in 1920 shows $109,934 for repairs, presumably inclusive of equipment items, whereas in 1936 the same mill shows $58,306 for repairs and $42,714 for equipment, making a total of ~~$101,2~~ $101,020 for direct comparison with 1920."

Various items are given of charges made. Before discussing those I would read the next paragraph:

"Another factor affecting the whole trend of repair figures is that up to January 1928, all labour attributable to repair work was included under repair account. From January

"1928 such labour has been charged to salaries and wages account and is not included in repairs. It has been impossible, in the time at our disposal, to arrive at the amount of wages formerly charged to repairs, but in certain instances we have been able to develop the figures and are showing them in the detailed explanation which follows."

They give figures for the Magog print works in 1924. The amount involved is $153,896; the dye house machinery repairs amount to $15,680.971; roofing jobs $36,586, and floor and sewer jobs $10,327. Again in 1927 we have an amount of $57,000 odd provided for labour charged to repairs and partially included in the amount involved, which is $113,000. For the cotton mill, Magog, between1920 and 1921 the amount involved is $418,565 and the amount attributable to change-over or drive, etc. is $48 158,052.73. Then follows information with regard to Montmorency. In connection with Merchants mill the following information is given.

"1921 -	Amount involved	$109,934.00
	Warehouse job	2,572.07
	Card room flat repairs	2,596.20
1922 -	Amount involved	$123,900.00
	Air washing system job	15,834.00
	Equipment charged to repairs	13,780.19
	Labor charged to repairs	29,835.05
1924 -	Amount involved	$111,828.00
	Labor charged to repairs	27,242.60

Mr. HEWARD: There were similar things dealt with in my argument.

Mr. McRUER: Yes, things that have a lifetime as high as ten years.

Mr. HEWARD: Taking a period of thirty years, they would be written off anyway.

Mr. McRUER: If you charge depreciation on plant and then charged to profits you charge twice.

Mr. HEWARD: No, they are not charged ~~xx~~ depreciation on this because you have not capitalized them.

Mr. McRUER: You have the plant back. Now we come to the exhibit in respect to this aspect of the case, and it is an important one in determining what the real profits are. If the insurance appraisal of 1936 is correct or approximately correct, this company has an appreciation of values since 1905 amounting to $17,000,000.

The COMMISSIONER: Where do you find that ?

Mr. McRUER: You will find it at page 7 of Exhibit 917. Since 1920, the appreciation amounts to $15,000,000.

The COMMISSIONER: I understood you to say that it was ~~$17,000~~ $17,000,000 between 1905 and 1920.

Mr. McRUER: Between 1905 and 1936. From 1920 to 1936 it was $15,000,000.

Mr. HEWARD: I do not understand that figure.

Mr. McRUER: Look at Exhibit 917 for the $17,000,000. You will find the calculation at page 7 of that exhibit. That page shows how it is made up, and page 177 of my brief deals with the period from 1920 to 1936.

The COMMISSIONER: That is where you get the

surplus value.

Mr. Mc RUER: Yes. The question is how it got there. Whether it got there by an accretion of values between the time the expenditures were made and charged as capital expenditures, or whether it got there by charging capital expenditures to profits. Mr. Daniels said they charged capital expenditures to profits and did not charge any to capital expenditures. In addition to that we have the appraisal that they took in 1920, and we have the insurance appraisal of 1936, and the statement on page 177 shows that a large part of the $17,000,000 has been added to the profits of the company in this way since 1920. Mr. Glassco made no attempt to deal with that.

Mr. HEWARD: In my argument I made an attempt to deal with it and I challenged it effectively.

Mr. McRUER: I am not saying that you did not. I said that Mr. Glassco made no attempt at all to deal with it and he was the man called to analyze the situation on behalf of the company and to undertake to show that there was no appreciation.

Mr. HEWARD: Page 177 was not before him when he gave evidence.

Mr. McRUER: Will you say there was no over-depreciation and excessive charge to repairs from 1920 to 1936 ? That was the question I put to Mr. Glassco and his answer was,"No"; all I can say is, I don't know".

Mr. HEWARD: He said he could not tell you without the appraisal.

Mr. McRUER: He did not say that. Show me the

evidence where he said it.

Mr. HEWARD: That is what he said.

Mr. McRUER: No, he did not say that. It is not in the evidence. I pressed him on it and he said he could not say, but he did say that the 1936 appraisal was approximately correct. So that he was not trying very hard to analyze it. The company's auditors might have been here instead of Mr. Glassco had they been trying to explain this.

I come now to discuss the way in which Mr. Heward has sought, by mathematical gymnastics, if I may say so, to break down our calculation. He says in the first place that the 1936 appraisal cannot be taken; that is only something for them to have on record. It is all right, if the place burns down, to refer to it and to say that the property was worth that much, but that in a tariff inquiry it must not be taken.

Mr. HEWARD: I did not say so.

Mr. McRUER: It is the effect of what you say. But let us see what the appraisal indicates. It is a document on the records of the company and they keep it as such. They want it back as soon as we are through so they can use it if the occasion arises, and it is the best statement we have from the company as to the value of their assets. And they have not come forward to give us any more intelligent statement. Mr. Heward puts his argument in this way, that the 1920 appraisal cannot be taken as a correct appraisal of the company's assets, notwithstanding that it was done by the Canadian Appraisal Company. That, we are told, was an appraisal that

was taken on a very conservative figure But the company's assets were worth a great deal more than that. But when you come to the decline that has taken place in these values you must not take the 1920 appraisal; you must take another figure that Mr. Heward builds up on the 1920 appraisal, and he says that the increase in values was much more than shown in the 1920 appraisal. You must not take the decrease from it but from some higher figure. I will show in what way he is wrong.

Mr. Howson, at page 177, takes as his basis in 1920, the 1920 appraisal--not what they put them as on the books, but the 1920 appraisal, because he felt that it would be unfair to them to take the decline in value on anything but the appraised value. Let us see what Mr. Heward said and then we shall have no mistake about it. At page 17746 of the evidence he is dealing with these different estimates that he got from Lockwood, Greene and Company, or through Loper. Although Lockwood, Greene and Company had written to Mr. Whiteley and said that they could not give further information, Mr. Heward got certain information through these letters from Loper, and Loper says he got them through a third party. Why he did not go to Lockwood, Greene and Company I do not know. At any rate, at page 17746 Mr. Heward puts it this way:

"Mr. HEWARD: All right. Now, Sirrine & Company show an increase of 183 per cent between 1913 and 1920. The lowest figure therefore, namely, that given by Lockwood, Greene & Company is 170 per cent whereas the 1920 appraisal

"showed only an increase of slightly less than 100 per cent. It is of course to be expected that the appraisal company's valuation would not reflect the full amount of the rise in value as at 1920 because the appraisal which they were making was intended to be used as a permanent record of values, and would therefore be made on a conservative basis, and would avoid reflecting extreme or sudden rises in values which might be of a temporary nature. That is natural; this was going to be a permanent record for our company for the purpose which it was evidently used, namely, that of reflecting the increase in the operations of the company, and we must not therefore reflect just a temporary fluctuation. Now, as I have pointed out, My Lord, the rise in values up to 1920 is shown by each of the three informants to have been much greater than the increase shown by the appraisal made in 1920. Therefore, I submit that the fallacy of the computations on page 177 of the brief, consists in the fact that The Textile World's percentage figures of 40 per cent are applied to the 1920 appraisal figures which shows less than 100 per cent over pre-war values whereas the Textile World showed an increase of 300 per cent and the drop of 40 per cent which it shows was from the high level of 300 per cent over pre-war costs. This drop of 40 per cent they show was from the high level of 300 per cent.

My friend, Mr. Heward puts it this way--that the increase, according to the figures I brought in was 300 per cent and that the appraisal company only allowed for 100 per cent.

Mr. HEWARD: According to your figures it is 300 per cent.

Mr. McKUM: And that the depreciation of 40 per cent ought to be taken off the 300. That was not the evidence. I would refer Your Lordship to Exhibit 510 in which the evidence of Mr. Fricke is given. He was called and sworn, he gave evidence before the commission, and notwithstanding Mr. Heward's skill at mathematics I submit we must accept the evidence as given. At page 7454 he states that he is the ivce-president of the Canadian Appraisal Company and has been in that position for fifteen years having been with the company for thirty years; and at page 7456, examined by Mr. Geoffrion, he gives this evidence:

"Q. Can you please tell us if this is a summary of this appraisal that I show you ?
A. Yes.

Q. It is; well, Isee it gives you for each mill the value of the land, of the water power privileges and leases, of the buildings, of the machinery and equipment, and then one column giving total depreciated value and the other one total replacement value new ?
A. Yes.

Q. Can you tell us whether this is accurate ?

"A. How do you mean ?

Q. Was this valuation an accurate valuation ? A. Yes, to the best of our knowledge I believe it is correct."

Then he was cross-examined.

"BY MR. GEOFFRION

Q. 510, thank you; this, of course was given over to the company; this was made at the request of the company and given to the company ? A. Given to the company.

Q. Thank you.

BY MR. McRUER:

Q. Were you told what the object of this appraisal was ? A. No.

Q. You must have been toldwhat the depreciated value of the buildings was at the time the appraisal was made ? A. I did not get that.

Q. You must have been told what the company's record of the depreciated value of the buildings was ? A. We had no knowledge of the company's records in any shape or form.

Q. Where do you get the figure, total depreciated value ? A. That is our valuation.

Q. Pardon ? A. That is our valuation.

Q. That was the valuation at the time you made the appraisal ? A. In 1920, yes.

Q. Then, the replacement value new is what

"it would cost to put them there again ?

A. At that time, yes.

Mr. GEOFFRION: As new.

BY MR. McRUER:

Q. Now, you don't know at what value the company carried them on their books at the time that this appraisal was made ? A. No, I have no knowledge of that.

Q. Did you understand that there was going to be a recasting of the financial structure of the company about this time ? A. I knew nothing about it.

THE COMMISSIONER: What is given as the replacement value ?

Mr. McRUER: $30,352,437.44.

Mr. GEOFFRION: That is new.

Mr. McRUER: That is the replacement value.

Mr. GEOFFRION: That is as if it was new because the value in the condition it was was $22,918,033.32.

Mr. McRUER: That is the depreciated value.

Mr. GEOFFRION: The value as of that date. The other one was to rebuild.

BY MR. McRUER:

Q. I want to understand what these columns are ? The first is the value of the land; that would be the value of the land at the time you made the appraisal; is that correct ?

A. All these figures are as of 1920.

"Q. As of 1920; well, the total depreciated value, why do you put in the total depreciated value ? A. That is the write down from the replacement cost at that time.

Q. The write down from the replacement cost ?

Mr. GEOFFRION: On account of age.

Mr. McRUER: No, that doesn't do. You have the second last column, total depreciated value. The first item is $3,712,907.96. Now, why did you put in the word depreciated ? That must be the value at that time ? A. Exactly.

Q. That is what you figure the value of those buildings to be. Now, how do you arrive at that figure ? A. Well, we make out the cost to replace new at the time of the appraisal. Then we take out the depreciation for age, wear or tear or any other condition."

That is what he says. So that although my learned friend's mathematical endeavours are to be recommended, the evidence is otherwise. Then we come to the question: Has there been a decline in values since 1920 ? I have had Mr. Howson prepare a short memoramdum in reference to this matter which is dealt with at page 177.

The COMMISSIONER: Your starting point, as I understand you, is that the appraisal of 1920 was a fair and just one ?

Mr. McRUER: Yes, of the values of that date.

The COMMISSIONER: Arrived at by the appraisal company, without any information that it was desired to be conservative or otherwise.

Mr. HEWARD: It was intended to be a permanent record of the company.

Mr. McRUER: He says it was replacement value less depreciation. When we compare withthat the cost of that machinery at that time, we see how much they did write it up by, what the increase was over and above the cost. The appriasal company appraised it as a just appraisal of replacement values and that is sworn to. Mr. Howson calculates that it was 83.9 per cent of an increase over the cost. That is the text. Take what is entered on the books as the book value of these properties and you will find that they increased it by 83.9 per cent.

The COMMISSIONER: Over what ?

Mr. McRUER: Over the book value.

The COMMISSIONER: This is the increase over that value.

Mr. McRUER: In percentage, yes.

(18930 follows)

THE COMMISSIONER: Then you mean the company itself did this, do you?

MR. McRUER: Yes.

THE COMMISSIONER: They wrote it into their books at this enhanced value; is that what you mean?

MR. McRUER: Yes; or 45% on the appraisal basis, you see. If the appraisal was twenty million it is increased by 45% of the appraisal or 83% on the book value. Now, having the appraisal as the accurate statement we go back again to the sworn evidence, and not the mathematical calculations of anyone. There we are. Now then, what has happened since 1920. Has there been a decline in these values? I have another statement. I have given certain references in my brief at page 178 and following in reference to this, and then in addition to that we have analyzed the statements that have been brought forward by my friend, and added to that the American indices as well as the Canadian. I got Mr. Whiteley to get the American indices to determine whether there have been declines in these values since 1920 in the United States as well as in Canada. Now on this statement first we have the Canadian building and construction costs, and iron and its products, on the left hand side.

MR. HEWARD: What is in iron and its products; do you know, Mr. McRuer?

MR. McRUER: Oh, everything, you get automobiles in there and all sorts of things, iron and its products.

MR. HEWARD: It is generally applied to everything.

MR. McRUER: You do not get any cattle in it or any sheep. You get iron and its products.

MR. HEWARD: Motor cars and machinery of all kinds.

MR. McRUER: Yes; and the next is the American construction costs.

THE COMMISSIONER: What do the figures represent, 144, for instance, what does that mean, 144 what?

MR. McRUER: It is the index figure, my lord, and taking that as 100% we show the comparative year. I beg your pardon, the 100% is taken in 1926 and the 1920 figure is in relation to 1926.

THE COMMISSIONER: You are using 1926 as the basic figure?

MR. McRUER: As the basic figure.

THE COMMISSIONER: That is 100.

MR. McRUER: 100.

THE COMMISSIONER: 1920 was 144?

MR. McRUER: Yes.

THE COMMISSIONER: It is confusing the way it is here.

MR. McRUER: We show you what the first column is, the indices with 1926 as the base.

MR. HOWSON: The base we are taking is 1920.

MR. McRUER: We convert it to 1920 in the second column. The first column, 144, for instance, is in 1920 and it was 144% of 1926.

THE COMMISSIONER: You say that 1920 is in excess

by 44 over 1926 although the percentage sign is not there. Then you take that 144 standard of 1920 and you make that 100%?

MR. McRUER: Yes.

THE COMMISSIONER: That being the case 1926 falls down to 70%?

MR. McRUER: 70% of 1920 and 1935 is 43% --

THE COMMISSIONER: 1935 is 56.4.

MR. McRUER: It is a 43% drop from 1920, 43.6. That is the difference between 56.4 and the 100. Now, iron and its products is done just the same way. Now, the drop in construction cost -- the Associated General Contractors, what is that, Mr. Whiteley?

SECRETARY WHITELEY: It is the association --

MR. McRUER: That is the table incorporated in the American indices?

SECRETARY WHITELEY: It is the association that provides the indices on costs, Association of General Contractors.

THE COMMISSIONER: Insofar as Canada is concerned you have only two factors there, building and construction, and iron and its products. Then you get over to the American side and you have more than that.

MR. McRUER: Yes, my lord, we have three. We have two construction costs, and the others are building materials and iron and steel. So that in the Associated General Contractors the drop was 29%. In the American Appraisal Company it was 40%; in the building materials 43% and in iron and steel 44.8%.

Now then, we come to deal with the tables that

were put in by my friend, Mr. Heward, and together with the one that we had put in. Now, Lockwood Grene Company table showed a drop. That was put in in Mr. Glassco's evidence and between 1924, I think it was, and 1926 certainly they had a drop, about 20%, my recollection was, between 1924 and 1926, and there table didn't go any further but they have given to Mr. Heward a calculation in the letter obtained -- or that they gave to the third party that gave to Loper that gave to Mr. Heward -- a calculation that showed them 77% of 1920. Now, what time that was in 1936 we don't know, and it may be that the difference is accounted for by being later in 1936 than the appraisal was taken which was in the latter part of 1935 and early 1936. Now, between 1920 and 1926 the index shows a reduced value from 1920, and your lordship will see Canadian building and construction costs 30%, Canadian iron and its products 40%; American construction costs, Associated Contrators 20%, American Appraisal Company 24%, building materials 33%, iron and steel 36.4%; Lockwood Green Company, textile machinery 35.4%; Serrine & Company, 36%. Now, that is up to 1926. Now, a further drop was shwon by all general indices from 1926 to 1935. Now, these are taken from the indices published by the Government. Between 1926 and 1935 the drop in Canadian building and construction is 13.6%, or a total of 43.6%; iron and its products, 10%, or a total of 50%. American construction costs, Associated General Contractors 9%, or a total of 29%;

American Appraisal Company index 16% or a total of 40%; American building materials 10% or a total of 43%; iron and steel 8.4%, or a total of 44.8%.

Now, in spite of the general trend as indicated by the above tables, and the fact that the Lockwood Greene and Serrine tables introduced by Dominion Textile Ltd., keep step with these tables up to 1926, the latter tables, as introduced, show a reversal of the general trend starting around 1933 whereas the Textile World figures on Textile Machinery are in keepint with the general trend.

If the tables of Lockwood Greene & Co. and Serrine & Co. are correct, the only reasonable explanation is that they reflect the cost of improved equipment in the latter years --

THE COMMISSIONER: That is in the Dominion Textile?

MR. McRUER: No, if Lockwood Greene & Company costs of equipping a mill show greater costs --

THE COMMISSIONER: Better equipment.

MR. McRUER: --they reflect the cost of improved equipment in the latter years, as they cannot be based on the actual costs of installation in the latter years in view of the statement contained inthe letter of December 21st, 1936 from Lockwood, Greene & Co. to the Commission Secretary, viz:-

"Very few complete mills of any importance have been built within the last few years so complete data in the form you want is not readily available"

So that everything we check out in any way, unless you go to extreme mathematical handsprings, shows that there has been a decline of about 40% in the cost between the time of the appraisal in 1920 and the time of the appraisal in 1936. Their own records show the books were written up by 43%, and therefore that the increase, the accretions in value that took place have disappeared and still the value is there so where did it come from? That is the simple story. May I have those calculations added to the record?

THE COMMISSIONER: Yes, they had better be added. You can put them in together as one number, number 1371.

EXHIBIT NO. 1371: Comparison of price indices in Canada & United States.

MR. HEWARD: What is the number of this exhibit?

THE COMMISSIONER: 1371.

MR. McRUER: Now, my friend, Mr. Heward, at page 17751 criticizes the table that we had prepared at page 177 of my brief that we depreciate the plant that was acquired from the Dominion Cotton Company and the Sherbrooke Cotton Company at the price that the company paid for it, that is, the price the Dominion Textile Company paid for it. He states:

"It is this, my lord, that Commission Counsel in that computation on page 177 has applied depreciation which was written off the cost of these assets against the alleged replacement values new in 1936, which he contends are substantially less than the original cost to the company. It is a fundamenta

"function of depreciation charges to rateably extinguish the cost of fixed assets over their useful life, and therefore depreciation charges must be based upon cost. Now, Commission Counsel has alleged that the replacement values new of the assets acquired since 1920 have fallen by certain stated percentages, in certain cases as much as 40%. The method which he has adopted, however, in his computation is to apply depreciation charges which the company has actually made on the basis of cost against the lower replacement value new which he states results from the alleged drop in prices. He then compares the difference between these two with the amount arrived at from the insurance appraisal."

Now, that might be an answer against a charge of wilful and excessive depreciation that is made maliciously and for improper motives. That is to say, we have depreciated at the cost price of the assets and you cannot set that off against the present day value after the market has declined, but it is not an answer --

THE COMMISSIONER: You have two constant factors there, the cost to the company at the time of the purchase and the lifetime, and you cannot vary from those. Cost can only mean one thing.

MR. McRUER: Yes.

THE COMMISSIONER: But Mr. Heward was saying you were trying to use the word "cost" in the other sense of the present market value.

MR. HEWARD: I say he was applying depreciation to the lower values, my lord.

THE COMMISSIONER: That is what I say, the present lower market.

MR. HEWARD: Applying depreciation we had taken on cost to the lower values.

MR. McRUER: No, we take the value of the buildings and then we say "what is their value to-day"? We take the cost to the company in 1928, for instance. Then we deduct the decline which in this instance is about $150,000. It does not make much difference on our whole computation anyway. We deduct the decline and then we find out what the value is to-day of this and take them into this table at that price. Then, following that --

THE COMMISSIONER: That is you say you can buy these same things to-day new for less than was put aside for their depreciation.

MR. McRUER: Take as an example the Sherbrooke Cotton Company--

MR. HEWARD: Then he goes ahead and deducts depreciation from the reduced figure. That is where we challenge it.

THE COMMISSIONER: It all depends on two factors. You were perfectly justified in taking depreciation on the two factors I mentioned there, cost and the lifetime, but what the result is going to be is a different thing.

MR. McRUER: What I say is: here is a case where their buildings in 1928 were $1,936,677; then,

for the purpose of comparing that with the 1936 appraisal we deduct the decline according to the indices in the meantime. That is all. We have got to do that to compare it with the 1936 appraisal, but as far as my friend's objection to that it would make only a couple of hundred thousand dollars difference in fifteen million.

MR. HEWARD: You deduct the depreciation we have charged against cost and then compare your resultant figures with the appraisal values.

MR. McRUER: Certainly you do, and you get the value of the plant to-day --

MR. HEWARD: If you would look at the example--

MR. McRUER: If you want to talk at the same time I will give you Monday afternoon or Tuesday morning.

MR. HEWARD: We might save time if you went on and read the example I gave in round figures there.

MR. McRUER: Your example is on record. I say it is all wrong. There is no use of reading it over again.

MR. HEWARD: Well, I maintain it is alright.

MR. McRUER: Well, I know you do. The whole question is my friend, Mr. Heward, is defending his case on the basis of taking improper depreciation. I am saying you took depreciation on the cost. That is alright, but when you apply the values, the depreciated values against the insurance appraisal then it shows the big hiatus.

THE COMMISSIONER: You are all the better off;

your profits are really greater.

MR.McRUER: Yes. Now, I think I am through with that matter. Oh, my friend, Mr. Heward, put in a table, or made some statements, as to the average depreciation taken over the whole period, and I have had Mr. Howson break that down into different periods. For instance, the year 1906 to 1917 the average depreciation was 4.72%. That is the whole thing. My friend took all my calculations that are set out at page 232 of my brief --

MR. HEWARD: 252.

MR. McRUER: 232, I think.

MR. HEWARD: I think you are wrong.

MR. McRUER: Yes, it is 252, at 252 of my brief. He took charges to operations for depreciated or obsolescent plant, charges to operations for depreciation, charges to operations for repairs and betterments and charges to operations for equipment and calculated the average rate of depreciation. We are not much interested in what the average rate of depreciation was --

MR. HEWARD: I calculated more than the average rate of depreciation. I showed the percentage that these repairs, depreciation and equipment and everything else that you have on that page bore to the average annual value of the plant and machinery.

MR. McRUER: Yes, alright. I had that broken down between the years 1906 and 1917 first, and we found that they only required 4.72%. Your statement says you took more than was necessary, the statement

published to the public. That was Mr. Gordon's statement, that it was more than was necessary.

THE COMMISSIONER: When you say Mr. Gordon you mean --

MR. McRUER: Put out by the company.

THE COMMISSIONER: Which Mr. Gordon?

MR. McRUER: Mr. Blair Gordon, the exhibit I read from this morning, my lord, exhibit 329, the booklet giving the history.

THE COMMISSIONER: Is Mr. Gordon personally the author of that booklet?

MR. McRUER: I think so.

THE COMMISSIONER: I didn't know that.

MR. McRUER: At any rate, it was published by the company. I think he acknowledged --

MR. GLASSCO: He was joint author with Mr. Webster.

MR. McRUER: Oh yes, it is stamped on the face of it, prepared by G. B. Gordon, Managing Director, Dominion Textile Company Limited and L.B. Webster, secretary, so it is well vouched for, and they say that was more than was necessary.

MR. HEWARD: What were the years again, Mr. McRuer?

MR. McRUER: 1906 to 1917 .

THE COMMISSIONER: Do they say 4.72% was more than was necessary?

MR. McRUER: They say up until 1920 they had taken more than was necessary.

MR. HEWARD: He said it was more than ample.

THE COMMISSIONER: Well, more than ample; I suppose it would mean more than necessary.

MR. McRUER: "Was more than sufficient to take care of actual wear and tear and to cover capital losses amounting to $540,000".

MR. HEWARD: That was up to what date?

MR. McRUER: It is until 1924, I beg your pardon. He deals first with up until 1920 and then he deals with it in that statement until 1924.

THE COMMISSIONER: Four point how much per cent?

MR. McRUER: 4.72%.

THE COMMISSIONER: 4.72 is what was actually taken.

MR. McRUER: That was actually taken up till that time.

THE COMMISSIONER: Up till 1917?

MR. McRUER: Yes, on the two columns that appear at page 252 of my brief.

THE COMMISSIONER: Is there anything to show that comes within Mr. Gordon's description of being more than sufficient?

MR. McRUER: I cannot say that, my lord, because I notice now that statement included up until the year 1924.

THE COMMISSIONER: From 1906 to 1924?

MR.McRUER: Yes, my lord. Then, from 1918 to 1926 they had 12.35%.

MR. HEWARD: May I interrupt; you said a minute ago two columns. Doesn't it cover four columns?

MR. McRUER: There were only two up until that time.

MR. HEWARD: Oh, I see.

MR. McRUER: Then they branched into three

columns. That is the reason I have got it broken up. They branch into three columns down to 1926 and then we have got four from 1927 on.

THE COMMISSIONER: Yes, after they had put apart charges for equipment.

MR. McRUER: Yes, my lord. It is 12.35% from 1918 to 1926 and from 1927 to 1936 it is 9.5%, and the average from 1906 to 1936 is 9.1%.

MR. HEWARD: In this case you excluded the $2,191,000 which we say should be included in the value of the assets?

MR. McRUER: Of course we do.

MR. HEWARD: Alright, I just want to make that clear.

MR. McRUER: We give you both percentages. We give you two columns.

THE COMMISSIONER: You work it out both ways.

MR. McRUER: We work it out both ways.

THE COMMISSIONER: You would not get the same percentage then, would you?

MR. McRUER: No, the second last column shows it one way and the last column the other.

THE COMMISSIONER: It would be 7.8% according to your valuation, Mr. Heward.

MR. HEWARD: That is for the whole 36 years.

THE COMMISSIONER: Whatever the period is the 9.1 is arrived at on the writing out of the $2,191,000.

MR. HEWARD: Yes, my lord, and the other is 7.8.

MR. McRUER: That is on the figure of what it cost the company. My friend wants it taken on cost

sometimes and sometimes he doesn't want it taken on cost and sometimes he wants some other basis.

MR. HEWARD: I have always insisted depreciation should be written on cost.

MR. McRUER: On what it cost the company, but you say the company got a bargain, we will depreciate on the bargain.

MR. HEWARD: No, I didn't.

MR. McRUER: This last column will be right. This will be exhibit number --

THE COMMISSIONER: 1372.

EXHIBIT NO. 1372: Table showing summary of charges for depreciation, etc. and average annual charges for depreciation, etc. for Dominion Textile Company Limited.

MR. McRUER: Now, in reference to these charges for equipment that appear in the fifth column on page 252 of my brief --

THE COMMISSIONER: Mr. Heward said these charges which were shown separately in 1927, was it, they were formerly included with supplies?

MR. HEWARD: Repairs, Mr. Gordon said.

MR. McRUER: Repairs?

THE COMMISSIONER: Not supplies?

MR. HEWARD: Mr. Gordon said in his letter repairs. I was instructed during the argument it was sometimes included in supplies in the earlier years.

MR. McRUER: Supplies, Mr. Howson says.

THE COMMISSIONER: Did it also include repairs?

MR. HOWSON: No, repairs were a separate account.

THE COMMISSIONER: I took a note of what you said the other day. You said it was formerly included in supplies.

MR. HEWARD: Mr. Gordon's letter says it was included in repairs, and I thought I was instructed it was also included in supplies.

MR. McRUER: It was supplies. Mr. Howson says Mr. Gordon's letter was wrong.

MR. HOWSON: We got that point straightened out the other day with Mr. Davies, the cost man.

MR. HEWARD: It may be there is an error there.

THE COMMISSIONER: Mr. Heward was right the other day.

MR. McRUER: Yes, Mr. Davies confirmed it.

THE COMMISSIONER: Mr. Heward said these charges were formerly included elsewhere in supplies.

MR. HOWSON: They had a supplies account and a repair account and later on included an equipment account but the equipment was in supplies in the earlier days.

MR. McRUER: I just want to deal with the character of these items. Card clothing, estimated life 10 to 20 years --

THE COMMISSIONER: What do you call it?

MR. McRUER: Card clothing, it is the wire covering, apparently. Normal life 10 to 15 years. Reeds, estimated life 5 to 15 years, normal life 10 years. Skewers, estimated life 3 to 20 years, normal life 3 years. Roving cans, estimated life 4 to 20

years, normal life 10 years. Bobbins, estimated life 3 to 25 years, normal life 5 years. Spools, estimated life 6 to 20 years, normal life 6 to 10 years. Heddles, estimated life 5 to 20 years, normal life 5 to 6 years. Roving trucks, estimated life 15 to 25 years, normal life 10 to 15 years. Filling boxes, estimated life 1 to 10 years, normal life 2 to three years. Miscellaneous, jacquard drop wires, etc., estimated life 1 to 20 years, normal life blank. Knotters, estimated life 7 to 20 years, normal life blank.

THE COMMISSIONER: Can anyone say where the line ought to be drawn from what you might call current equipment and permanent? Some of them there, when you take in 15 or 20 years --

MR. HEWARD: There was no normal life over ten, as I remember it.

THE COMMISSIONER: 15 was mentioned there.

MR. HEWARD: Estimated.

MR. McRUER: No, normal, card clothing. When you start up a mill you equip it with all these things. They are capital charges at that time, and then when you replace them they must be capital charges. If you charge them all to profits as you go through you are keeping your mill in respect to all these articles in up to date shape out of profits and not out of depreciation. If you take depreciation on your capital machinery at the same time then you have a double charge.

MR. HEWARD: Not if you are looking at a period

of over 15 years, I understand --

MR. McRUER: If you keep on I will not leave you alone. I am trying to get away from you but you seem to want me to stay with you.

MR. HEWARD: Please don't threaten me.

MR. McRUER: I am not threatening you. I may think of something else; that is all.

-- The Commission adjourned for a short recess.

-- On resuming.

MR. McRUER: Now, just a word or two, my lord, in reference to the subject of Japanese competition. We have had the advantage, at any rate, of a year's experience in regard to the subject of Japanese competition, and the result is now that Mr. Heward, as counsel for the company that took the aggressive action, or xx Mr. Heward says the defensive action that Dominion Textile Company took in January, 1936, says at page 17907 of his argument:

"THE COMMISSIONER: Well, the other figure you gave by way of comparison is relatively much larger than thirty-eight thousand, but in the absolute sense is it a large figure?

MR. HEWARD: In the absolute sense, no, my lord, but I think it denotes an increasing trend".

THE COMMISSIONER: That was the volume of merchandise from Japan, was it?

MR. McRUER: Yes, my lord.

"THE COMMISSIONER: Of course, that was no doubt the intention of the trade agreement, to increase business between the two countries, but would

"you say that the importation of 291,000 pounds in ten months was a large amount?

MR. HEWARD: No, my lord, not compared with the production, I don't think it was. I will be quite frank with you, but I think it means that there may be going on here what Mr. Kellock has pointed out has gone on in other places, the gradual absorption of the market by Japanese goods, and there is no doubt when we coupld that with the fact that they can lay them down--

THE COMMISSIONER: Pardon me a moment; you say in other places; the other places you have in mind are where?

MR. HEWARD: I think the Philippine Islands is one which has been absorbed.

THE COMMISSIONER: Can you point to any organized countries like Canada where that is really the case? Take the United States, for instance.

MR. HEWARD: I think they have absorbed a large part of the Australian market, haven't they?

THE COMMISSIONER: A greater part of the Australian market, but there is an arrangement there between Japan and Australia", and so on.

So that counsel cannot put forward now in argument that the textile business of the country is imperilled at the present time by the sale of Japanese textiles in the Canadian market. There is no question about that. The business has not closed up on account of this. The competition seems to be inconsequential unless you regard the textile business of Canada as the exclus

the exclusive right of the Canadian industry. I believe Mr. Kellock put forward the fact that some 10 or 12 or 19 men, or something -- I have forgotten the figures, but some small number like that -- were laid off by Brown Silk Company because Japanese goods were being sold of the nature that the Brown Silk Company had previously manufactured. Well, that sort of thing does not mean anything at all in considering the whole aspect of the agreement.

Now, Mr. Whiteley has brought down to date the external trade with Japan, or as between Canada and Japan, and I will deal with that in a moment when Mr. Whiteley brings the statements. But we have to look at the thing in a very much broader aspect than it has been dealt with by either of my friends. You cannot deal with it as an encroachmamt on any prerogative right of anyone. It is a question of, has this agreement that was entered into between Canada and Japan in 1935 been generally beneficial to the Dominion of Canada? If some of the textile mills were feeling the pinch that might be no argument whatever against continuing the trade relations with Japan, but when we find the textile mills that complained most loudly working 24 hours a day it does not sound like they were being injured very much. Take Montreal Cottons, for instance. The evidence was the articles that are imported were articles that were in competition with the Ming Toy fabric and the other fabrics that were manufactured by the Montreal Cottons Company, and yet we have the announce

ment in the paper in the last few days that Montreal Cottons has gone on 24 hour day production, so that whatever the reason is the companies are doing better than they were before, and our relations with Japan are improving.

Now, Mr. Whiteley has brought this exhibit, 666, isn't it, Mr. Whiteley, Canada's trade with Japan by principal commodities? I think it is 666. I want it for the purpose of the record.

SECRETARY WHITELEY: 667.

MR. McRUER: Are you sure of that?

SECRETARY WHITELEY: 666 is by fiscal years.

MR. McRUER: Then this is 667, by months.

THE COMMISSIONER: I might say in this Order in Council particular mention is made that the position is to be found of the Dominion Textile Company's artificial silk industry in relation to British competition, and in relation to foreign trade. There is particular reference made to that, one company's position in relation to British and to foreign which would include Japanese competition.

MR. McRUER: Well, the position --

THE COMMISSIONER: And in respect to its artificial silk industry.

MR. McRUER: The position of the Dominion Textile Company --

THE COMMISSIONER: Take the Dominion Textile Company, take its artificial silk industry and see what its position is in relation to British and Japanese or other foreign competition.

MR. McRUER: I will deal with that.

THE COMMISSIONER: Perhaps you are going to deal with it later on.

MR. McRUER: No, I will deal with it now.

THE COMMISSIONER: It would be illustrative of the question, I think.

MR. McRUER: It have dealt with that in my brief and in no sense has that aspect of my brief been challenged.

THE COMMISSIONER: Of course, when I say deal with it now I mean since you are going into the question from a general point of view.

MR. McRUER: The position Dominion Textile Company is in now in respect to Japanese competition as a result--

THE COMMISSIONER: In relation to its artificial silk.

MR. McRUER: In regard to the artificial silk industry, and I deal with the Dominion Textile Company quae company and not quae owner or controller of Montreal Cottons. We get them a little closely allied, but as far as Dominion Textile Company is concerned we still have the position that Mr. Howard has made his statement to your lordship, and Mr. Gordon gave his evidence which is set out in my brief at page 29, and there has been no alteration of that evidence down to date. Mr. Gordon was asked:

"Q. As far as you are concerned today you have not yet seen a sample of the Japanese goods that competes with your Sherbrooke manufacture?

"A. We have seen many samples of Japanese goods as sold to different markets, and so far as I am concerned I have reason to be quite confident or certain, if you like, that Japan is fully capable of making the exact goods that were quoted on.

BY THE COMMISSIONER: Q. Of making what?

A. The exact goods that were quoted on, that Japan quoted on.

BY MR. McRUER: Q. If you would just answer my question then we will go on with any explanation you wish to make. I say up to today you have not seen any Japanese goods in the Canadian market that is of the same texture, the same specifications, or is the same article as manufactured at Sherbrooke?

A. I have not seen that myself. There may be such in the country; I don't know.

Q. I would think with the interest you have in the matter if they were to be had you would have seen them by now."

MR. HEWARD: When was that?

MR. McRUER: On the 7th of April.

"A. I don't know that they would have been available to me. I noticed in your list of importations there are certain crepes that may have been samples. I have not seen those samples. There is 250 pounds, was it? I would be very glad to see them.

Q. All I am talking about, Mr. Gordon, is that

"you have not seen them? A. No.

Q. You know of nobody in the Dominion Textile that has, up to today?

A. Yes, I think that is a proper statement. I don't know at the moment --

Q. Well,--

A. Let me answer; I don't know at the moment whether any of our salesmen in any of our sales offices have actually seen the types of goods as manufactured at Sherbrooke represented by Japanese samples or Japanese goods.

Q. What evidence have you got right now of any flooding of the Canadian market with any goods, that is, rayon goods similar to the ones manufactured at Sherbrooke?

A. I am not quite clear when you say 'flooding', in what sense --

Q. I mean flooding it in the sense that we would say it is going to be disastrous to the Sherbrooke mill?

A. I think we all know that up to the present time that the imports of Japanese goods have not been very large because there has not been time for them to become so."

Now, we have come down to date with no evidence whatever put forward to show Japanese goods of the character that were manufactured at Sherbrooke being sold here, but the evidence was all directed quite the other way to show that some goods manufactured by Montreal Cottons -- not manufactured by them -- some goods that

Montreal Cottons had discontinued manufacturing in October, 1935, were of the same type as goods imported from Japan, and we have Montreal Cottons business, we have the yarn business, artificial silk business going on, yarn sales up, more raw material and so on; so in that aspect I submit in all the argument that has been put forward to your lordship there has been nothing shown to indicate that Japanese trade in artificial silk in Canada is even injurious to the Canadian textile manufacturers, and certainly the competition that they received from it is inconsequential.

Now, Mr. Whiteley has brought down to the end of 1936 -- let's see now, we have got 1937 in that column; what does that mean, Mr. Whiteley?

SECRETARY WHITELEY: This should be 1934, 1935 and 1936.

MR. McRUER: Mr. Whiteley has brought down to the end of December, 1936, the statement, exhibit 567, which shows the importations from Japan under particular heads together with the summary. Now, the total importations from Japan for the year 1936, the calendar year 1936, amount to $4,296,558.

THE COMMISSIONER: Total importations of all goods?

MR. McRUER: Of all goods, yes, my lord.

THE COMMISSIONER: Amount to what?

MR. McRUER: $4,296,558.

THE COMMISSIONER: That is for what period?

MR. McRUER: For the calendar year 1936; for the calendar year 1935 they amounted to $3,565,026,

and in 1934 they amounted to $4,424,721.

THE COMMISSIONER: I must say I am surprised that they are not larger in 1936.

MR. McRUER: I just want to compare the exports to Japan for those three years.. The total exports to Japan for the calendar year 1936 amount to $19,750,132 and the total exports for 1935 were $14,915,577 and for 1934 $16,475,829. So we have an increase of nearly five million over 1935, and your lordship will bear in mind that the war was on for about five months -- I mean the trade war was on for about five months in 1935; and there is an increase of $3,300,000 over 1934 which was a year when there was no special trade disruption except the disruption caused possibly by our high tariffs that were in effect. So that your lordship will see as a result of the agreement that was entered into in December, 1935, restoring normal trade conditions between Canada and Japan, we have increased our exports to Japan by a very marked degree. Now, it is true that the surtax in Japan only applied to about half of our exports, but still it was a trade disruption and it was a trade disruption with a country that, after it is corrected, it is a customer for just about 4½ times as much as we buy from them. Now, it is a very important matter and I will deal with that a bit later when I deal with tariff matters in their broad aspect, but here is the textile trade in 1935 putting all the pressure they could on the government to maintain the surtax, to keep Japanese goods out, to keep this channel of trade closed as far as

textiles are concerned, bring nothing in here that would compete with us and closing a market where we had a customer that bought 4½ times asx much as we bought from them.

Now, on a broad policy of economic welfare to the country one need say very little except to quote the figures to indicate that to have acceded to the demands of the textile industry in January, 1935, would have been very detrimental to the nation as a whole --

MR. HEWARD: January, 1935?

MR.McRUER: 1936.

SECRETARY WHITELEY: The disparity would not be quite so great if raw silk were not there.

MR. McRUER: That is quite true. There is still a certain measure that comes in to us through the United States. I think in other times according to my brief I added about three million dollars.

THE COMMISSIONER: Tell me this, the other day when Mr. Heward and I were discussing the volume of Japanese shipments to this country of artificial silk down to what date did those figures go? Was that down to the end of December?

MR. HEWARD: The figures I gave, my lord, were the first ten months of 1936.

MR. McRUER: I have them now, my lord, right down to the end of the year. It is shown on this same exhibit and Mr. Hooper has brought them down to January in some other exhibits I have to file. Mr. Whiteley, just now on these figures when we are

here, these are in what units?

SECRETARY WHITELEY: Thousands of dollars.

MR. McRUER: In August they amounted to $28,000, in the year 1936 -- that is artificial silk and manufactures of artificial silk, which Mr. Hooper points out includes cotton and mixtures.

THE COMMISSIONER: Not cotton and mixtures.

MR. McRUER: Cotton mixtures. In September $21,000, in October $23,000, in November $23,000 and in December $11,000, or a total of $1,990,000, is that correct? No, it is $199,000.

MR. HEWARD: For the fiscal year?

MR. McRUER: That is for the whole year.

THE COMMISSIONER: You started at August.

MR. McRUER: I know, but we have the total of $199,000 for the whole year, my lord.

THE COMMISSIONER: You are just giving me those five months out of it?

MR. McRUER: I am giving the five months which were not in the previous statement.

THE COMMISSIONER: Then, our importations, as I take it, during 1936 of artificial silk and artificial silk and cotton mixtures from Japan amounted to $199,000?

MR. McRUER: Yes, my lord.

THE COMMISSIONER: What about the month of January, 1937; we have that?

MR. KELLOCK: I gave it to your lordship in pounds, my lord. In the calendar year 1935 it was 41,363 pounds and in 1936 it was 347,786 pounds.

THE COMMISSIONER: That is in the month of January?

MR. KELLOCK: That is for the calendar year 1936. Then, in the month of December, 1936 it was 16,798 pounds and in January, 1937 it was 66,873 pounds.

THE COMMISSIONER: You haven't the money value of that?

MR. McRUER: We have the money value of it; that is just what I have given your lordship.

THE COMMISSIONER: In January, 1937?

MR. McRUER: We will have that.

THE COMMISSIONER: 16,798 pounds in December were worth $11,000.

MR. McRUER: $11,000.

THE COMMISSIONER: It would be about four times as much, wouldn't it?

MR. McRUER: But there if we just forget about the textile industry and treading on their toes or pinching--

THE COMMISSIONER: Are you reading from a new document there?

MR. McRUER: No, this is in. Mr. Whiteley has amended it to bring it down to date. We see that in the year 1936 of the total exports from Japan only $199,000 out of $4,296,000 was artificial silk products, and as against our total trade with Japan of $19,750,000 the importance of permitting the Japanese access to the Canadian market with this small and inconsequential amount of artificial silk products is very great, if it is going to interfere

with that volume of export trade. So on whatever ground we like to take it it seems to me it was a very narrow view that was being put up to the government in January, 1936, when the industry went to the Ministers to bring pressure to bear on them to exclude Japanese textiles by putting on a fixed valuation, or any other process. Now, as to the figure for January, 1937, my lord, that is in exhibit 1348, and the amount is $35,000 or 66,000 --

MR. HOOPER: 66,000 pounds.

MR. McRUER: 66,000 pounds or $35,000. Now, in reference to the -- Mr. Hooper, you have the shipments --

MR. HOOPER: In yards.

MR. McRUER: As to the Dominion Textile Company, my lord, we have a statement compiled as to the shipments in yards. This is just for January, though?

MR. HOOPER: Each month is there.

MR. McRUER: We have a statement of the shipments in yards by these various companies and the Dominion Textile Company is included in it, for each month for the years 1934, 1935 and 1936, and partially brought down to date for the month of January, 1937, and Mr. Hooper will procure the figures later to bring it down to date as far as possible. I suggest, my lord, we make an effort on all these exhibits showing the figures of either trade or production and so on, as far as possible to bring them down to the end of the fiscal year, 31st of March, 1937 so that when your lordship comes to deal with

them you will have the most up to date figures that are available. Now, this will be--

THE COMMISSIONER: 1373.

EXHIBIT NO. 1373: Statement showing artificial silk fabrics shipped by Canadian mills.

MR. McRUER: Now, in regard to the Dominion Textile Company shipments in January, 1936 amounted to 309,622 yards.

THE COMMISSIONER: Are you dealing only with artificial silk?

MR. McRUER: This is artificial silk fabrics, as against 202,982 yards in January of the previous year.

THE COMMISSIONER: Give me the first figure; that is for January this year?

MR.McRUER: This is January, 1936.

THE COMMISSIONER: You began with 1937, didn't you?

MR. McRUER: No, we have not got 1937 for Dominion Textile. This is January, 1936, 309,622 as against 202,982 in January, 1935. And for February 339,478 as against 197,119. For March 288,914 as against 273,322. April, 353,667 as against 246,675 in 1935. May, 378,626 as against 326,743. June, 323,715 as against 160,689 for 1935. You have not got all the 1936 figures. You have got Dominion Textile 1936 figures from there on?

MR. HOOPER: No.

MR. McRUER: That will be brought down to date.

MR. HEWARD: These are shipments, are they, Mr. McRuer?

MR. McRUER: Made by the companies.

MR. HOOPER: This is partly a recapitulation. There is one in giving total--

THE COMMISSIONER: This is headed artificial silk fabrics shipped by Canadian mills. You mean to say there is already an exhibit in dealing with this territory?

MR. McRUER: I think this is a recapitulation of more than one exhibit that has been filed.

SECRETARY WHITELEY: There was one that brought it down to May.

MR. HOOPER: There is one in to the end of June.

MR. McRUER: I suggest it be put in and be brought down as far as possible to the end of the year or up to the 31st of March if possible, 1937.

THE COMMISSIONER: We will give it a new number, 1373.

MR. McRUER: Now, I want to have a word to say about the textile industry in general and its relation to the general economic life of the country during the depression years. My friend, Mr. Mellock, in his brief at section "J", page two, has made a plea on behalf of the textile industry on the ground that they have not made a sufficient return on the capital invested in the industry during these years of depression. Now, in paragraph four my friend says:

" The profits made by that portion of the textile industry included in the Commission auditor's exhibits over the last ten years have been substantially less than the most modest estimate

"of what is a fair return on capital invested in manufacturing enterprises. The exhibits cover approximately two thirds of the industry, and that the most successful portion"--

Well, that is not a correct statement.

THE COMMISSIONER: You have dealt with that already.

MR. McRUER: We have dealt with that.

"--and do not include companies that disappeared from business in the same period or capital lost thereby. The exhibits of the Commission Auditor when properly interpreted"-- I think Mr. Kellock means when interpreted as he contends they ought to be interpreted -- "show that the portion of the industry included in the exhibits earned 4.8% onthe investment in the last ten years. In the five year period 1926 to 1930, these companies earned 5.4% on their investment and in the five year period 1931 to 1935, 4.2%."

THE COMMISSIONER: Just a moment; I suppose, Mr. Kellock, you mean there annually; do you or do you not? You say they earned 4.8% on the investment in the last ten years.

MR. KELLOCK: That is the average annual --

MR. McRUER: On the average annual investment. Now, of course I have dealt with the subject of how they got that investment and who made the investment, but just take for the purpose now of argument, accepting Mr. Kellock's statement that the investment was an investment put in by the shareholders and it is not

investment by the consumers, as I contend in large part. But he says "look how badly we have been treated in Canada. We have only got 4.2% on our investment throughout the depression." Now, that is the earning on the whole of the investment in the whole of the industry, of all the reporting companies, bad managed companies, good managed companies, all taken together, ill conceived companies, companies that are there that should never have been there, or otherwise. You can take these reports and you will see companies in there that have red figures from the time they started, and whether it is correct bookkeeping or not I don't know how a company can go on for ten years in red figures of many thousands of dollars, but taking them altogether, every one of them, over the period of years this textile industry has had an earning of 4.2%. I don't think there is any other industry in the world that through the depression years, to take the whole industry all across, hosiery, yarn, knit goods, cotton, silk, the whole lot of them, that will show you a return of 4.2% on an average of them all taken together. Take our steel industry during the depression years and see where it went to. Take our farming industry, people losing their farms, losing their capital, but here you have an industry entirely maintained, everything fine and an earning of 4.25% on the whole industry. I don't think there is greater condemnation of the tariff protection that this industry had than Mr. Kellock's own statement in his brief on that subject. They have been nurtured as no other individual or industry

or company in the country has been nurtured.

MR. KELLOCK: You are forgetting that that has not been proven.

MR. McRUER: Well, we all have some common sense. We all know that people were losing their homes and farms. Haven't we had special acts of Parliament passed, the Farmers' Creditors Arrangement Act, special legislation, and our legislators across the continent have passed moratorium acts to prevent people from losing the last bit of equity they had?

MR. KELLOCK: What about the automobile industry?

MR. McRUER: If the automobile industry -- but that is an exporting industry to begin with -- if it did any better during the depression than the textile industry then I think it is time the automobile industry was looked after and some of the tariffs on automobiles brought down. My friend would agree with that because he doesn't represent automobiles, he drives one instead.

Now, I just want to analyze for a moment what I was at yesterday in respect to what this industry is in our economic life that has been so well taken care of. Now, I have procured the two compilations that I mentioned last night in reference to the Census of 1931. This was got out in 1933, and the first one is number 31. It is an analysis of those gainfully employed in Canada, and page 8, my lord, is the table I referred to last night for a moment, and I intend to now discuss it in order to deal with the general aspect of the matter. Your lordship will see

there that taking all industries as 100 agriculture had 28.73 in Canada gainfully employed. 33.86% of the males in Canada were gainfully employed or engaged in agriculture. That is, one-third of those gainfully employed in Canada, of the males, were engaged in agriculture. Your lordship will see, as I mentioned last night, that that is a much more important figure as applied to agriculture than it is as applied to the textile industry, or any manufacturing because in manufacturing you have slightly more females, a higher percentage of females than of males. So that as far as agriculture goes the male is the supporter of the home. In the textile industry it is distributed between males and females and there will be cases, probably, where the female is the supporter of the home, but for every male in agriculture gainfully employed he has several others dependent on him who are all consumers of textiles.

Then we come to the other large group, the manufacturing group, down a bit further; 16.08% of thos gainfully employed are engaged in manufacturing. Now, from Mr. Kellock's brief we have had it that 11.22% of those engaged in manufacturing, employed in manufacturing, are engaged in the primary textile industry.

MR. KELLOCK: In 1934.

MR. McRUER: In 1934, but there will be a higher percentage in 1934 than 1931, so as I said yesterday and I must apparently repeat it I am not being unfair when I take the percentage in 1931. That leaves 1.8% of the total of those engaged who are engaged in the

Primary Textile Industry.

MR. KELLOCK: You are taking something for granted there, and that is that the proportion of the 100 as between agriculture and manufacturing, the 100 and the 16.08 remains the same from that 31 to 1934.

MR. McRUER: Well, as I say, it would be greater in others because the Textile Industry maintained their employment on a higher proportion than others on account of others going out of employment.

THE COMMISSIONER: Tell me again what figure did Mr. Kellock give?

MR. KELLOCK: 11.2%.

MR. BEAUREGARD: Out of 16.08.

MR. KELLOCK: That is in 1934 and what I am pointing out to my friend is if you are going to take that percentage of the 16.08 on the basis that the 16.08 remained the same in 1934---

THE COMMISSIONER: What you said was out of those employed in manufacturing in 1934 11.2%---

MR. McRUER: I will get at it in another way. 11.4 would be about the accurate one. I worked it back another way and 11.4 would be engaged in the Primary Textile Industry in 1931 ---

MR. KELLOCK: My friend does not understand what I am pointing out. I am not complaining about the 11.2 or 11.4 at all. I am pointing out, my lord, that instead of being 16.08 in 1934 it may have been something entirely different.

MR. McRUER: It would be 1.4 in 1931.

MR. KELLOCK: What would be?

MR. McRUER: The portion of the Primary Textil Industry; we worked it out by the number available and we worked it back to 1.4 so I gave you the benefit of the .4% and you had 1.8.

MR. KELLOCK: I am merely pointing out if you are using the figure---

MR. McRUER: The trouble is that I am generous to you and you waste my time.

MR. KELLOCK: The trouble is you won't listen to the point I am trying to make. You have misunderstood it.

MR. McRUER: I did not misunderstand it at all.

THE COMMISSIONER: I want to make sure what it is myself.

MR. KELLOCK: What I am pointing out is if my friend takes 11.2 ---

THE COMMISSIONER: What I want to know, take this 16.08; that is to say out of every one hundred people gainfully employed 16.08 are employed in manufacturing.

MR. KELLOCK: Yes.

THE COMMISSIONER: Now, what proportion of the 16.08 is employed in the Textile Industry?

MR. KELLOCK: In that year, my lord, I cannot tell you, but in 1934 the proportion in engaged in textiles of the total manufacturing was 11.2.

MR. McRUER: That is Primary Textiles.

THE COMMISSIONER: Of the total manufacturing.

MR. McRUER: Primary Textiles.

Mr. KELLOCK: All I am adding to that is if you take 11.02 of 16.08 that is on the assumption that the 16.08 remained the same in 1934.

MR. McRUER: I worked it back by the number employed.

THE COMMISSIONER: 11.02 of 16.08, that is quite understood. You mean 11.02 out of 16.08 or 11.02 of 16.08?

SECRETARY WHITELEY: Of.

MR. KELLOCK: Of.

MR. McRUER: 11.02 of 16.08.

THE COMMISSIONER: That is 11.02 of the 100%.

MR. KELLOCK: No, of the 16.08.

MR. McRUER: That would be 1.8 % of the 100%.

MR. KELLOCK: That is on the assumption that 16.08 is true.

THE COMMISSIONER: Oh yes.

MR. McRUER: I have worked it back the other way and I have the figure for those employed in the whole Textile Industry, that is, Primary and Secondary Manufacturing, and it was 2.49% in 1931. So I think I am being extremely generous to the Primary Textile Industry when I take 1.8.

MR. KELLOCK: I might just add, my lord, whatever the percentage is the actual number in 1931 was 51,000 and in 1936 it is 63,800.

SECRETARY WHITELEY: That is not quite correct. The number gainfully employed are those who report their normal occupation as being in the Textile Industry.

MR. KELLOCK: Whether they are working or not; but these last figures I am giving, I am not using this publication, I am using what is in my brief, page 2 of Section B.

SECRETARY WHITELEY: You are pointing out the increase between 1931 and 1934.

MR. KELLOCK: I am taking the actual number employed in each of those years. In 1931 it is 51,931 and in 1936 it is 63,800.

SECRETARY WHITELEY: But that increase there might not represent an increase in gainfully employed according to the census figures. In other words, if you had a decline between 1929 and 1931 ---

MR. KELLOCK: Well, quite so; I can give the intervening figures if you like but I was only giving those two years. It is progressively upward. It is already in. It is part of my brief.

SECRETARY WHITELEY: It was upward from about 1935.

MR. KELLOCK: It is continuously upward.

SECRETARY WHITELEY: From 1929?

MR. KELLOCK: From 1931.

MR. McRUER: It does not make a particle of difference whether it is 1.4 or 1.8. The figure engaged in 1931 - we have to work on the last census - was 2.49 % in the whole of the Textile Industry. That is primary and secondary manufacturing, clothing and all that. It comes down to 2.49% so that it is less than 2% in the Primary Textile Industry. Now, I want to go on and analyse this table and show

the character of the other people who are gainfully employed and distribution by provinces. Take, for instance, in the Province of Prince Edward Island 57.14% there are employed in agriculture and 4.66%% in manufacturing, and I think none in Textile manufacturing apparently according to our evidence. In service, for instance, 14.13% are in service. Now, we come to Nova Scotia; 24.26% are employed in agriculture. 10.43% in manufacturing and 17.60% in service. New Brunswick, 33.04% in agriculture, 11.23% in manufacturing and 16.87% in service. Then, we have Quebec, and I think the nearest balance is in Quebec and Ontario, no doubt, between agriculture and manufacturing. 22.41% in Quebec are employed in agriculture and 19.66% in manufacturing and 21.49% in service. Now, we come down to Ontario. 22.54% are employed in agriculture, 22.26% in manufacturing and 19.94% in service. Then, we go to the West and the picture changes very drastically. 34.45% in agriculture---

THE COMMISSIONER: In Manitoba.

MR. McRUER: 34.45% in Manitoba, 9.76% in manufacturing and 19.65% in service. Then, Saskatchewan, 60.31% in agriculture, 21.71% in manufacturing and 15.33% in service. So that one cannot wonder that the Province of Saskatchewan is not interested in manufacturing. I think Mr. Kellock said he did not know of any consumers in Canada except up around Great Bear Lake or some place like that.

There may be some in Saskatchewan who are.

In Alberta 50.89% are in Agriculture, 4.84% in manufacturing and 16.67% in service.

In British Columbia 14.05% in agriculture, 14.59% in manufacturing, and that is the only Province in the Dominion where the number engaged in manufacturing, the percentage exceeds the percentage engaged in agriculture, but I think that will likely no doubt be due to the lumber trade which will be included as manufacturing after the logs are cut, will it not?

SECRETARY WHITELEY: Sawmills.

THE COMMISSIONER: Mining and fisheries too; they are classed as manufacturing.

MR. McRUER: 21.19% in service. Now, if your lordship will look at the breakdown of it in the other book, No. 36, table No. 2, we have the percentages by industry groups. We have again agriculture 28.72%. Then we have the manufacturing groups ---

THE COMMISSIONER: Just a minute, where did you get that from?

MR. McRUER: On page 2, my lord.

THE COMMISSIONER: Page 2, you mean Table 2?

MR. McRUER: Page 2, Table 1.

THE COMMISSIONER: Industry groups, all industries.

MR. McRUER: All industries 100%, agriculture 28.72%. Now, we have Forestry, Fishing, and Trapping, Mining and Quarrying, and then the manufacturing group again which is broken down to show how it is made up. We have the textile group 2.49%, and that is all

the manufacturing of textile including Primary and Secondary, so that it is less than 2½% of the whole picture, and the Primary I put it at 1.8 perfectly fairly. If I put it at 1.5 it would probably be more nearly accurate. Now, just let us look at the analysis of trade, for instance. This is Canada's Trade, those engaged in trade, those in the Dominion who are making their living out of buying and selling and exchange of goods in the Dominion and are interested in goods being exchanged in the greatest volume possible and the quickest turnover and would be engaged in the sale of goods at the lowest ~~rpi~~ price. Retail trade, 9.86%, or in other words 5.5 times as many gainfully employed in retail trade as in the Primary Textile Industry. Just a moment; I beg yourpardon, total trade is 9.86 and retail trade 8.31, and curiously enough I think we have had it said the whole sale trade is a thing that is gone by. It has outlived its usefulness and it is gone now in the Dominion. We have ~~oj~~ 1.55% or nearly as many engaged in the wholesale trade alone.

THE COMMISSIONER: That is six years ago.

MR. McKUER: That is 6 years ago, but the wholsale trade I rather think would be the trade that would be very badly hit by high tariffs, because the manufacturers like the Wabasso Cotton Company and Dominion Textile and others have said they are going directly to the retail trade. They are going over the heads of the wholesale trade. If importers were doing

business their goods would be handled through wholesalers and besides you would have the whole import trade. I don't know how they are classified. Not long ago someone said to me look along Wellington Street in Toronto where the importers used to have their offices and see how they are all closed up between 1930 and 1935. However, I only present this to show the great importance to the Dominion of those engaged in tradd. We lose sight of them altogether. They are engaged in distribution and if goods come into Canada that might be manufactured in Canada they are not necessarily putting people out of employment. They are giving employment to others. Look at those engaged in transportation and communication. They are 7.80%. In addition to the benefits that would accrue to the consumers we have the direct benefits that accrue to these people that are engaged in handling goods and delivering them and transporting them. So that if the prices are reduced then more goods would be handled, more people would be employed, and I am not touching at the moment on the position of our exporters. I am going to deal with that later. Now, this is the industry that has made 4.2% on all its investments throughout the depression. Now, how have these other people got along that are shown on that table during the depression. Well, we do not need much information to tell us, but I think the reports of the Department of Labour in respect to relief and those on relief is significant.

The population in Canada in 1931 was 10,376,786. The Bureau of Statistics estimate of population in 1932 is 10,506,000, in 1933 10,681,000, in 1934, 10,824,000, and in 1935, 10,949,000. Now, in 1932 there were 833,988 people on relief.

THE COMMISSIONER: When was this?

MR. McRUER: In 1932; in 1933, 1,227,558. In 1934 1,135,848 . In 1935, 1,182,423, and in 1936,1,162,130. Now, the percentages were in 1932 8.9% of the people of Canada, 1933, 11.5%, 1934, 10.5% and 1935, 10.9%. Now, when the purchasing power of Canada was reduced in that way still we have this earning that my friend shows. Now, we might contrast the position of the exporting industry with the position of this industry during that period. We have first the exports of agriculture and vegetable products. These exports amounted in 1935 to $226,000,000 in round figures. Animals and animal products---

THE COMMISSIONER: What year?

MR. McRUER: 1935; animals and animal products, $87,000,000. Wood and wood products and paper $161,000,000. Iron and its products $41,000,000. So that out of total exports of $756,000,000 these three groups form $515,000,000. Now, I only emphasize this to show the importance of these three groups in our economic affairs. Now, we know the position. We do not need anything but ordinary human knowledge to tell us the position of the agricultural industry at the time this industry was earning 4.2% on all the investments in the whole reporting industry.

Capital was being lost, action was taken by the Government to provide relief for farmers, mortages were being foreclosed, and action wastaken by the government to reduce mortgages and reduce rates of interest. Moratorium acts were being passed all over to prevent lawsuits from being brought. Now, that is the condition of our exporting industr as compared with the condition of this industry.

Now, Mr. Howson prepared a statement which showed the position of this industry in Canada and in the United States. There is on record in Exhibit No.600, which shows the earnings in the cotton industry in Great Britain during these years.

THE COMMISSIONER: What is that Exhibit?

MR. McRUER: It is a brief prepared by Mr. Hallam and it is Exhibit 600. He says:

> "As an illustration of the extent of the depression in the spinning section of the British Cotton Industry, it shoul d be noted that in 1934, of the 171 companies lited on the Oldham Stock Exchange, only 35 were in a position to make any dividend payments, and that the dividends so paid amounted to less than 4/10 of 1% of the capital of the 171 companies."

Then at reference No. 7, Statement 7d it says: That after 1930 - well, we will go back for awhile longer and just see what they did in other years in Great Britain. In 1920 it was 19.7%. In 1921 - these are total dividend payments and percentages

to total paid-up capital since 1920. 1920 19.7%. 1921, 4.3%. 1922, 2.7%. 1923, 1.6%. 1924, 1.7%, 1925, 4.0%. 1926, 2.7%, 1927, 1.6%. 1928, 1.4%. 1929, 1.3%. 1930, .0665%. 1931, .3893%. 1932, .3418%. 1933, .3209%. 1934, .3577%. So when we contrast the earnings in Great Britain over the depression and pre-depression years with the earnings of this industry all across, everything, everyone in it, with these earnings, one sees how prosperous they were. Well, just one more word about these exporters. Then we have wood and wood products which in the year 1935 had $161,000,000 of the total exports, very important exporters from Canada, and we do not need anyone to tell us the position of the wood, pulp and its products industry, the paper industry during the depression years. Every company engaged in it merely in the receiver's hands, and iron and its products as well. Now, at page 206 of the Canada Year Book of 1936 we see the decline in the capital that took place, in these important industries, exporters. This is the decline in the volume of production, I beg your pardon. Agriculture, for instance, in 1929, had a volume of production of $1,729,821,129, and by 1933 it had declined to $890,164,311.

THE COMMISSIONER: One-half.

MR. McRUER: Just about one-half. Now, forestry was $495,000,000, the value of the production in 1929 and in 1933 it had declined to $197,500,000, which again is less than one-half. Fisheries,

the value of the production was $70,000,000 in 1929, and it declined to $35,000,000. Trapping $16,000,000 and it declined to $7,000,000. Mining $352,000,000 and it declined to $264,000,000. I think we will find that marked a sharp up-turn after 1933 on account of the increase in the value of gold. So on these important exporting industries we have a great decline in their purchasing power, in their sales. It gives a measure of the condition of these industries and they were consumers of textiles, and I submit that it reflects in no small degree the great benefit that an industry that is comparatively inconsequential in our economic life has had during the depression years. Yet they come to this commission and say we have not had enough. Our returns have been insufficient to provide us with an adequate return on the capital invested in this industry. Well now, if they had come and said: "Well now, we have been helped through the depression, we have got along very nicely, we have not lost any money, we have made a return of 4.4% on our investment all across, and we think now that we are going to have a good turn of business and let the tariff barriers down a bit, and it will bring the prices down and everything will be happy". We might have said "Well now, they are not such bad fellows", but they come and say we have not had enough. We want the same tariff protection. We want the same opportunity to deal with the consumer as we have dealt with him in the past, and their returns through the depression show whether they have taken

advantage of the consumer or not. They say we took no addantage of him, of these poor fellows that are on relief, the farmers that have lost their purchasing power, and people say in this country "Oh, you talk too much about the farmers and you play up to the armers." We have got to look at things in Canada as they are, and the fact is that the great producer of wealth in this country is the farmer by all odds. He is the man that is producing the wealth, and we are now in the situation that we are the fourth exporting country of the world, and how are we going to maintain that position? If we are to maintain our position in the foreign markets we cannot do it by making productio i Canada more expensive than is necessary. Our exporters have to compete in the foreign markets against world prices and if you have an artificial atandard of prices for textiles for the 1.8% of those gainfully employed as against 28% engaged in agriculture, for instance, or as against any of the other exporters you handicap them in getting wealth for the country and maintaining our position.

Now, take, for instance, countries like France, Germany, Italy, Belgium, we are ahead of them all as an exporting nation, but we have got to maintain that position and we cannot maintain it by burdening the producers with this form of taxation so that it is more difficult for them to meet world competition in the prices of the goods they have to sell. On that ground it is difficult to maintain that a protective

duty on textiles is justified, that it can be justified as an economic benefit to the Dominion. I am going to deal tomorrow with the volume of imports and the volume of exports and the revenue that has been collected in the past and the revenue that is being collected now on these different articles of trade.

Now, I want to say a word on the doctrine that has been put forward that the tariff ought to be based on an equalization of costs of production. Mr. Kellock put it this way at Section F, page 1, of his brief:

> "Unless duty rates and customs regulations at least equalize the landed costs from the exporting country and the costs of production in the importing country, the industry in the importing country cannot permanently continue to provide employment."

In other words he meant that unless the costs are equalized between the exporting country and Canada the industry here won't do business. He leaves out of consideration costs of transportation. He leaves out of consideration the difficulty of dealing with one who distributes from abroad, but I say to establish any principle of fixation of tariff the doctrine that it should be on the basis of equalization of cost of production is fallacious and dangerous to a great exporting country like Canada.

MR. KELLOCK: It is not correct to say I omitted consideration of transportation; you will find I have said in there landed costs.

MR. McRUER: All right, landed costs; that is not important in my argument. I say it is a fallacious doctrine because it leaves out of consideration the whole question of maintaining our trade relations with the world at large. Now, a most important step has been taken by the Government in this direction by the execution of the recent trade agreement with the United Kingdom. The Government has abolished the very policy that my friends contend for and ask your lordship to deal with as a sound policy. The Government has taken it out of the old treaty and left the hands of the government free as far as the new treaty is concerned in respect to that matter.

THE COMMISSIONER: I think Mr. Kellock's principle as enunciated here by him, is about the same as article 11 of the old treaty.

MR. McRUER: Just about the same, yes. Now, the new treaty leaves that article 11 out. There is no right to go to the Tariff Board on any such principle. There is another approach to the whole problem and that is what is in the economic interests of the country in the promotion of trade with other countries.

THE COMMISSIONER: Have you a copy of the new agreement?

MR. McRUER: Yes.

THE COMMISSIONER: Will you point to the basic principle of it.

MR. McRUER: The basic principle ---

THE COMMISSIONER: Perhaps it is full of them.

MR. KELLOCK: It is just a bargain, that is all.

MR. McRUER: No, it is far more than a bargain. The whole treaty has underlying it a new basic principle to begin with, that it leaves what are called the bound items, the items on which they had been bound to maintain a margin of preference between the intermediate and the general---

THE COMMISSIONER: That is gone?

MR. McRUER: And the preference, they have brought it down to 91 items now.

THE COMMISSIONER: Instead of 200 and something.

MR. McRUER: Instead of 215. None of these 91 items are items that are goods that are of a class or kind made in Canada. Of the 91 items 11 are textile items and they are all inconsequential textile items, and as far as the trade of Canada is concerned they are all items that are free under the British Preference so that as far as manufacturing goes in Canada it does not affect them.

THE COMMISSIONER: Then, the two treaties do not differ in respect to these 11 items, but they are free anyhow.

MR. McRUER: They are free. I have them all analysed here. As to whether they were free before I am not sure.

THE COMMISSIONER: There is no question of maintaining a certain margin.

MR. McRUER: There is a question of maintaining

a preference on these items, yes, my lord, under the provisions of the treaty. I will deal with it.

THE COMMISSIONER: Oh, a preference between nothing and the present intermediate tariff.

MR. McRUER: Yes.

MR. HOOPER: The present intermediate tariff may be higher in some cases. I think there is such a case.

THE COMMISSIONER: May be made higher?

R. HOOPER: No, it is higher than the margin of preference.

THE COMMISSIONER: What margin?

SECRETARY WHITELEY: In some cases the intermediate is 25% and the margin is 15 but the British Preference is free.

THE COMMISSIONER: Oh, the new agreement is to maintain a uniform margin.

SECRETARY WHITELEY: No, it varies with different items. The intermediate is 25% but the agreement may only call for 15.

MR. McRUER: I have prepared a memorandum, my lord, in respect to this agreement and when I have explained it in a moment I will put it in your lordship's hands. The whole basis of the agreement was to leave Canada free to negotiate trade agreements and arrangements and trade as she would with the rest of the world except in respect to those particular items which were items that were not - on which there was no degree of protection.

It was protection of a channel of trade because they are goods not made in Canada, of a class or kind not made in Canada. It was toe direct the channel of trade to Great Britain, but in regard to the other aspects of all the other items under the tariff schedule you can make arrangements with any country you wish. Now, I have prepared this memorandum which contains the articles ---

THE COMMISSIONER: I suppose you think I should adopt the treaty.

MR. McRUM: No, I submit, my lord, that the policy that my friend argued for in presenting their case is one that has already been discarded by the Government, and I am arguing it would be a ~~tr~~ retrograde step to go back to it. Now, Article 7 of the New Treaty reads as follows:

> "The Government of Canada undertake that goods the growth, produce or manufacture of the United Kingdom enumerated in Schedule IV, when not of a class or kind made in Canada and when subject to duties of customs on importation int Canada, shall, when conveyed without transhipment from any part of the British Empire enjoying the benefits of the British Preferential Tariff into a sea, lake or river port of Canada, enjoy the benefit of preferential tariff margins which, in the case of any such goods, shall not be less than the difference between the rate of duty

provided for in this Agreement and the rate of produce or manufacture of any foreign country, provided however that, if the duty on foreign goods becomes less than such preferential tariff margin, no duty shall be levied on the like goods of United Kingdom origin."

That is they will have this margin but if the duty on the foreign goods becomes less then there is to be no duty on the goods imported from the United Kingdom.

THE COMMISSIONER: Just a minute; if they ~~pr~~ reduce the margin then the British goods become free?

MR. McRUER: If they reduce the margin - for instance, if the tariff on the British goods was 15%, the margin was 15% and they reduced the tariff to the foreign countries to 25% and the British goods must become free, but a great many of the British goods are free now. On all textile items they are free now so as far as textiles are concerned we can disregard any question of protection between Canada and the United Kingdom. Your lordship will see the first item dealt with is 522f. 15% is the margin ~~of~~ Agreed on. The next item, there has to be a correction. Your lordship will take off the specific duties.

THE COMMISSIONER: 3½ cents you have there, is that it?

MR. McRUER: Yes; as a matter of fact, the

specific duty was abolished as a margin on all except one item and that is 551c on page 2.

THE COMMISSIONER: That is, the 3½ cents comes out of both columns.

MR. McRUER: No, it is the intermediate duty, it comes out of the agreed margin.

THE COMMISSIONER: What about the others?

MR. McRUER: It still remains. The effect of that, my lord, is this, they could take the 3½ cents off the intermediate and still maintain all the margin of preference agreed on. They have only agreed on a margin of preference to the amount of the ad valorem duty. So on any of the bound items, as they are called, on any of the bound items they can take off the specific duties on them, all except one, and that one they can reduce it, the ad valorem, from 17½ to 12½. So that underlying this whole agreement is the principle ---

THE COMMISSIONER: Pardon me a moment; I notice there are some other items here where the agreed margin contains a specific item. Is that a mistake too? 551c on page 2.

MR. McRUER: That is the one I spoke of. Well, just a minute, there is one at the bottom of the page here. 552 on page 5. Well then, on page 3 your lordship will see we have a table there of the textile items on which the Government of Canada was bound to maintain a margin of preference as per article 9 of the Treaty of 1932. Now, this shows the old condition, The binding of trade that existed

under the old agreement and it can be compared with the new agreement as an elaboration of trade. You see the position, my lord, in reference to that old agreement was this that having your bound items, these agreed margins of preference, it sort of froze the trading condition and it froze it to the comparative costs between Canada and Great Britain, a very difficult thing to determine. You could not reduce your margin of preference on these items on the general or the intermediate tariff - you could not reduce the general or intermediate tariff because you would reduce the margin of preference, and then the tariff as against Great Britain was still left to be determined on that question of relative costs of production. Now, under the new treaty as far as the textile items are concerned the only bound items are free. They are not tied up with anything. As far as relative costs of production they are free. As ~~far~~ regards all other items you can make whatever agreements you like with other countries. I am just dwelling on this because it is put forward both by Mr. Heward and Mr. Kellock that the principle underlying article 11, should prevail against the whole world and now it has been abolished as between Canada and Great Britain, and incidentally by the reduction of the margins of preference Canada is now at liberty to negotiate agreements for the promotion of trade, export and import trade, with any other country except with this limitation that thesemargins on

these particular items which are free to Great Britain will be maintained, and they are articles not of a class or kind made in Canada.

THE COMMISSIONER: What is the duration of this new agreement.?

MR. McRUER: The 20th of August, 1940.

THE COMMISSIONER: Well, I think we have had enough.

SECRETARY WHITELEY: Are you filing that?

MR. McRUER: I would like to have that filed.

THE COMMISSIONER: Yes, this will be 1374.

EXHIBIT 1374: Memorandum re Trade Agreement between Canada and United Kingdom dated February 23, 1937.

MR. McRUER: I will just conclude with this matter. I want to point out that that principle ties our export trade to the cost of production of a hothouse industry in Canada, and that very elusive thing of what is the cost of production, a very vascillating thing because costs of production depends on the number of competitors, the amount of overhead , which change from time to time, and if every other country did the same thing then in all industries there would be practically no trade existing in the world.

THE COMMISSIONER: Costs of production are no longer a factor.

MR. McRUER: No longer a factor.

THE COMMISSIONER: What about the treaty with the United States?

MR. McRUER: It has nothing to do with it, never had.

THE COMMISSIONER: There is some provision there for application to be made to the Tariff Board.

MR. McRUER: That is on the question of Fixed Valuations. I still have to deal with that Japanese Treaty.

THE COMMISSIONER: We sit at 10 o'clock tomorrow.

-- The Commission adjourned at 5.55 P.M. to resume Saturday, March 20th, 1937, at 10 A.M.

(Page 18995 follows)

ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

A.S. Whiteley, Secretary,

ONE HUNDRED AND THIRTY-FIFTH DAY

(March 20th, 1937)

A R G U M E N T

Robert Brydie,
Official Reporter.

ROYAL COMMISSION ON THE TEXTILE INDUSTRY

HON. MR. JUSTICE W.F.A. TURGEON,

Commissioner,

A.S. Whiteley, Secretary,

Appearances:

J.C. McRuer, K.C. and E. Beauregard, K.C.	Commission Counsel,
R.L. Kellock, K.C.	For Primary Textile Co.
C.G. Heward, K.C. Aime Geoffrion, K.C. and C.T. Ballantyne,	For Dominion Textile Company.
S.G. Dixon, K.C.	For Courtaulds, Limited,
L.A. Forsyth, K.C.	For Canadian Celanese Ltd. and Canadian Silk Products Limited.
Francois Lajoie, K.C.	For Wabasso Cotton Co.
A.S. Bruneau, K.C. and G.A. Campbell, K.C.	For Canadian Cottons.

--- ooo ---

Ottawa, Ontario,
March 20,1937

The Commission resumed at 10 a.m.

Mr.McRUER: My lord, last night I was pointing out the fundamental change that had been made in regard to our trading policy in the recent trade agreement between Canada and the United States, and that it was no longer tied up to the protective principle that there should be an equalization of costs of production between this country and any other country, that that principle is done away with in this agreement, and that the true principle that ought to prevail is not a protective principle but one which is based on trade relations between this nation and other nations.

I want to say a word in that regard in respect to one matter Mr. Heward raised in his argument, and that was his suggestion that there should be an amendment to section 35 of the Customs Act so that the value for special duty should be determined in the same manner as the value for duty is determined in respect to section 35. Section 35 provides that wherever any duty ad valorem is imposed on any goods imported into Canada the value for duty shall be the fair market value thereof when sold for home consumption in the principal markets of the country whence and at the time when the same were exported direct to Canada. Subsection 2 provides:

"In case of importation of goods the manufacture or produce of any foreign country the currency of which is substantially depreciated, the value for duty shall not be less than the value that would be placed on similar goods manufactured or produced in Great Britain and imported from that country if such similar goods are made or produced there."

Mr. Heward in his presentation in respect to this got away from its application in the sense of protective provision in regard to Canadian trade and made the suggestion that even in regard to preserving our commercial relations or our treaty relations with other countries there ought to be some amendment to this section, so that when we made an agreement, we will say, whereby we lowered the intermediate tariff, that agreement was not defeated because goods would come in over the lowered intermediate tariff from some other country whose currency was seriously depreciated. In that respect I think there is a principle involved that is worthy of consideration. I am not dealing with any particular country that has a depreciated currency. But our object in making trade agreements with other countries is to create channels of trade through which trade will flow, and if we are to create those channels of trade, if the effort should not be defeated by having the trade that we wanted to flow through that particular channel flooded out by coming in through another, due to

the general reduction in the tariff. It may be that we are prevented from making suitable trade agreements with other countries by reason of the danger of lowering the intermediate tariff, if by lowering the intermediate tariff generally the object would be defeated by trade coming in from countries of depreciated currency.

THE COMMISSIONER: I have been thinking while you were talking. The only country of importance to-day whose currency is now depreciated in respect to the dollar is

MR. MCRUER: I think that is true, except for raw material. Crude oil.

THE COMMISSIONER: From South America, you mean? You mean the crudde oil is a raw material of this industry?

MR. MCRUER: I am dealing with it as a question of principle, not as applied to any particular country. What I am thinking of is the extending of our trade relations throughout the world, and if for instance, we lower the intermediate tariff in order to accomplish an agreement with other countries, it is worthy of consideration as to whether some corresponding amendment should be made so that that would be preserved. I have not thought the thing through, but there is a suggestion -- 33(2) makes it the basis for regular duty. The British selling price, that is the foundation of it, for regular duty, it is not for dumping duty. I suppose the experts that deal

with it in the different departments would be much more competent to say than we are, as to what extent it in any way hampers the negotiation of further agreements by reason of the fact that you are handicapped, that if you lower your intermediate tariff then the goods do not come from the country you are agreeing with, but from some other country with a depreciated currency. I do not think that it is altogether limited to the depreciated currency either. If there are excessively low costs of production in other countries the object of an agreement should be defeated, say an agreement we make with the United States, where there is a high cost of production. Mr. Heward has brought up something there, and I am thinking of it from an entirely different point of view. But I have put it forward from both points of view, I think, and that is the protection of the industry and the preservation of these channels of trade that are established by agreement. I am thinking of it with regard to the expansion of trade and not the protection of industry.

THE COMMISSIONER: I think you and Mr. Heward are getting dangerously near to agreement.

MR. KELLOCK: My friend is almost a complete convert, my lord.

MR. MCRUER: If my friend puts it that I am a convert to anything I will withdraw everything that I have said.

I am putting it from a different point of view altogether, and that is the question of expansion of trade with nations generally; but if my friend suggests that anything I say is said with a view to giving to this industry further protection than it has got, I absolutely repudiate the suggestion, and if there is anything of that nature in the suggestion I make, then I say that the suggestion is not worth paying any attention to.

MR. HEWARD: We must try not to frighten you away from that beautiful accord.

MR. MCRUER: I have prepared, my lord, so that they would be available to your lordship in the preparation of your report, for such reference as you desire to make, a complete statement of the Canadian customs duties on textiles and textile products, and also, appended to it, goods subject to drawback for home consumption. This, I think, is pretty well all in, but I have had it prepared all in one document so that it is available in compact form.

THE COMMISSIONER: We will put this in as an exhibit, Mr. McRuer.

MR. MCRUER: Yes my lord.

" EXHIBIT No.1375, Statement of Canadian Customs duties on textiles and textile products; and goods subject to drawback for home consumption.

MR. MCRUER: There isnothing I want to say in connection with this at all.

Now I want to deal with Canada's external trade.

In the first place I have had prepared an analysis of the imports into Canada from Japan for 1936 and the month of January 1937. First, of artificial silk fabrics.

EXHIBIT No.1376: Analytical statement re imports from Japan, 1936 and January 1937.

MR. MCRUER: Mr. Hooper will in due course bring it down to date for February and March, 1937, down to the end of the fiscal year. Your lordship will notice two things which I should like to point out in regard to this. The three largest items are taffetas, regular weave, they are 680,000 yards.

THE COMMISSIONER: That is for 1936?

MR. MCRUER: Yes, my lord. That is the cheap type. Then we have the others. The largest one is the brocedd taffetas, and your lordship will remember the evidence which was given as to whether these were made in Canada or not, and we have the evidence that the large departmental stores were not handling any Canadian brocaded taffeta, and that the buyers did not know that it was offered for sale in Canada. When I was challenged on that I went through all the invoices that were filed by Mr. Gordon and I found not a singlesale of a brocaded taffeta of artificial silk that he claimed they made, and they apparently did make in some quantities, -- not a single sale to one of the large departmental stores in Toronto or Montreal. There were a few sales to the Robert Simpson company, which in Regina,

I think, but in all the other stores there were no sales at all. So when one sees the type of import and the inconsequential nature, it is convincing that this is not a serious matter at the present time.

Mr. Hooper says that in respect to January, 1927, the figure of 43,000 at the foot of the page will not agree with the statistical records on account of the fact that some of the goods were put into warehouses and that he had all the invoices compiled for the purpose of this record.

THE COMMISSIONER: So, then, the figures will be smaller.

MR. MCRUER: The import figures will be smaller.

THE COMMISSIONER: And they will come out in other months.

MR. MCRUER: They will come out in other months.

MR. KELLOCK: The figure given yesterday was 35,000, was it not?

MR. HOOPER: Yes.

MR. MCRUER: The next is a similar statement of cotton fabrics, my lord.

EXHIBIT No.1377: Analytical statement relative to cotton fabrics, imported.

MR. MCRUER: And this shows that in the whole of the year 1936 there were imported 491,000 yards at a value of $49,000, and of those importations the great bulk were those cotton groups, 365,000 yards. Your lordship will remember the whole story of the

cotton groups, of a class or kind made in Canada, how we come down finally that the Montreal Cottons threw up their hands and said, "Well, this is of a class or kind not made in Canada." So when it is suggested that we are under any peril at the present time of the Montreal Cottons having to close up their plant on account of Japanese competition, we find that the danger is a very small one.

MR. HEWARD: We never made the statement that we were under any danger with regard to cotton fabrics. I speak of Montreal Cottons.

MR. MCRUER: No, it was rather Mr. Bruneau that said it was a cancer that needed a surgeon's knife at once to cut it out for fear it got into the whole fiscal structure of the cotton industry in Canada.

MR. HEWARD: But you mentioned Montreal Cottons just then.

MR. MCRUER: It was the Montreal Cottons that got into the argument over the cotton crepe. I quite agree with my friend Mr. Heward that Montreal Cottons is in no danger at the moment.

MR. HEWARD: I did not say that. But neither did I say that we had threatened to close.

MR. MCRUER: No, I didn't say anybody threatened to close. I said they suggested they were going to get swept off the map altogether.

MR. KELLOCK: May I just ask about this. Under your heading of a class or kind not made in Canada

for instance, corduroys and velveteens, is that on the basis of the ruling made by the department? It has been ruled?

MR. MCRUER: Yes. In the March issue of a publication by the Department of National Revenue there is a comparative statement of Canadian foreign trade, on the back page, my lord, and I wish to file this as an exhibit. It is a very useful summary. If your lordship will note that for the month of February, 1936, the total value of Canadian exports, that is all exports of Canadian produce, was $62,000,000, in round figures, and in 1937, $74,000,000. And the exports of foreign produce are up considerably, although they are not very consequential.

We come now to the principal items of export, and the quantity of wheat --

THE COMMISSIONER: Pardon me a moment. What is meant by "the total exports of foreign produce"?

MR. MCRUER: That would be goods that are manufactured here or probably changed in that condition. They are foreign produce brought in here and changed in condition, but not sufficient content to qualify for having been made Canadian produce.

THE COMMISSIONER: What is there, for instance?

MR. KELLOCK: Industrial cottons would be one thing. Subject to drawbacks, as your lordship knows.

THE COMMISSIONER: No, that would not be the same thing.

MR. HOOPER: Some automobiles would qualify, I think, and I believe typewriters.

MR. MCRUER: Some things which they bring in in parts and assemble them here, and they have not got a sufficient content of Canadian labour.

THE COMMISSIONER: They do not get naturalized here.

MR. MCRUER: They do not get naturalized here.

MR. KELLOCK: Does that include grey cloth and industrial cottons which are subject to 99 per cent drawback for export.

MR. HOOPER: For bags, for instance, It may. We will find out more about it.

MR. MCRUER: Wheat also does not account for the rise either in quantity or value. Flour is up in quantity and up very considerably in value. Fish is up in quantity and up in value. Furs are down in value. Meats are very much up in quantity and very much up in value. Cheese is down in quantity and up slightly in value. Planks and boards are up in quantity and up in value. Wood pulp is up in quantity and up in value. Newsprint is very much up in quantity and very much up in value as well. Automobiles and parts are up in value; the quantities are not shown. Copper is down in quantity and up in value. Nickel unmanufactured is up in value slightly. Now for the eleven

months ended February 1936, we find that the total exports are up nearly $2,000,000.

THE COMMISSIONER: From $775,000,000 to nearly $972,000,000.

MR. MCRUER: Yes, and wheat accounts for about $80,000,000 in round figures.

THE COMMISSIONER: Of the increase?

MR. MCRUER: Of that increase. That is the value. The rest is flour, about $2,000,000 of an increase; the quantity is almost the same; the fish accounts fore $1,000,000 of the increase; furs $3,000,000; meats account for $9,000,000 of the increase, practically, or eight and a half millions. Planks and boards, $12,000,000, which is up -- I missed wood pulp, in round figures $4,000,000 increase.

THE COMMISSIONER: Planks and boards?

MR. MCRUER: Planks and boards, $4,000,000.

THE COMMISSIONER: $12,000,000.

MR. MCRUER: That is right; wood pulp is $4,000,000 and newsprint $18,000,000 approximately, $17,500,000. Automobiles and automobile parts are down.

THE COMMISSIONER: Down four and a half million.

MR. MCRUER: Down four and a half million. Copper is up seven millions, with very little change in quantity, and nickel is up $7,000,000, with no statement as to the quantity.

THE COMMISSIONER: Well, we will give the ~~same~~

document a number, 1378.

EXHIBIT No.1378: Copy of National Revenue Review, March 1 issue.

MR. [illegible]: This table emphasizes the importance of what I was saying yesterday, that our exporters and those who are creating wealth in Canada and are bringing into Canada wealth are those who are engaged in agricultural pursuits of different sorts and the industries connected with the forests. They form the big backbone of the nation's strength, if I may say so.

I have had prepared a number of rather comprehensive statements dealing with our trade generally, to demonstrate the importance of those industries in Canada that are consumers of textiles and must compete in the markets of the world if we are to maintain this export trade that I have just been dealing with.

The first of these statements, sheet number one, is a statement of the exports from Canada to British and foreign countries shipping fibres, textiles, textile products to Canada in substantial quantities. That is that this shows our export trade with those countries from which we buy either textiles or fibres and articles connected with textiles. I want to compare with your lordship, if I may, the decline of our export trade with these countries from whom we are told we ought not to buy textiles, the markets should be closed here to those countries; and I prepared this exhibit to show what customers they are of these great

basic producers in Canada and how the trade with those countries was maintained during the period when the textile industry was given a protective tariff that enabled them to prosper and these industries were not able to prosper, as we saw yesterday. Now take in 1926, for instance, we had exports of agricultural and vegetable products amounting to $606,000,000. I beg your lordship's pardon, the first group of exports is to all countries.

THE COMMISSIONER: You mean to the whole world?

MR. MCRUER: Yes, my lord, agricultural and vegetable products, $606,000,000, to all countries.

THE COMMISSIONER: There is nothing to indicate that on this table. You are quite sure of that, are you? That applies also, then, to the first figure, does it, total imports $1,315,000,000?

MR. MCRUER: And the first figure is the breakdown of those.

THE COMMISSIONER: Well, that is our world trade, our world export trade?

MR. MCRUER: Yes. Then your lordship will see how that declined to 1936, and altogether --

THE COMMISSIONER: Declined from $1,315,000,000 to $849,000,000.

MR. MCRUER: It got as low as $528,000,000 in 1933. And if you take the first two together, in the breakdown, the agricultural and vegetable products and animals and animal products, essentially agricultural products, the two of them taken together

animal and animal products -- they do not produce many animals for sale in the cities; there may be a few fat dogs, it doesn't amount to much; and we do not export wild cats, we keep them for domestic consumption, but that amounts to $796,000,000 in 1926; in 1936 the group taken together was $342,000,000 So I just repeat that in emphasis of what I said yesterday as to the decline in the purchasing power of these importers as compared with the maintenance of the textile industry through that period. If the textile industry was able to come here and show us destitution such as that, my friends would have had a black story to put before the commission. After all I feel a certain amount of responsibility to these people who have suffered in that way during this period, because they are the consumers.

Now, to go to the lower statement, the lower part of the statement, and that is the export to these textile producing countries. We have the United Kingdom: in 1926 $508,000,000, and it declined in 1932 to as low as $174,000,000. By 1936 it is up to $221,000,000, and we hope that that will greatly increase by the end of the next fiscal year. Now the Irish Free State, $4,700,000, that declined in 1932, and 1933 was the low point of $2,247,000 -- cut in half. I think it is fair to make this comment, that Australia is not a textile manufacturing country, and I have some doubt as to the propriety of either Australia or New Zealand being included in

this group. They produce wool.

THE COMMISSIONER: Do we buy any wool from Australia?

MR. HOOPER: Yes sir, quite a large quantity, from Australia and New Zealand.

MR. MCRUER: We come to Belgium. Belgium in 1926 was a customer of Canada to the extent of $22,000,000; in 1929, $27,000,000. Now in 1936 the amount was $11,000,000. I want to emphasize, my lord, the decline in trade with all these intermediate countries. China is under the general tariff. China was a very considerable customer of Canada in 1926, in 1929 it bought as much as $24,000,000 worth of our goods. In 1936 it is down to $4,000,000.

THE COMMISSIONER: What particular injury did we do to China in regard to textile importations?

MR. MCRUER: As far as they are concerned they are under the general tariff -- the highest that we have got.

THE COMMISSIONER: No, but I mean in recent years.

MR. MCRUER: Well, the general tariffs were raised.

THE COMMISSIONER: Did they have exports of textiles into Canada that have decreased considerably? What do they send here? What kind of

fabrics?

MR. HOOPER: We get manufactured goods from them, such as underwear, silks, lingerie and things like that. I do not know the value. I will find it here, though.

MR. MORUER: As a matter of illustration and nothing more, I went into a store in Kingston, Jamaica, last spring, and I understand they have very low tariffs in Jamaica because they have not much native industry there, and the store was just full of Chinese textiles of one kind and another, including silks of a very attractive nature, especially, as Mr. Hooper says, underwear, kimonos and things of that sort. Our textile imports from China in 1931 were $682,000, in 1932 $705,000, in 1933, $511,000 in 1934, $471,000; in 1935, $477,000. Now have we got them for 1928?

THE COMMISSIONER: They remained pretty constant during those years.

MR. MORUER: I want to get them before 1930, before the increase.

THE COMMISSIONER: Yes, but during those years they did not decrease much.

MR. MORUER: We will get the figures from 1930 to 1936 in a moment. France, for instance, has varied. The exports to France have varied from $17,000,000 in 1932 to a low in 1936 of $7,648,000.

THE COMMISSIONER: It was nearly $18,000,000

in 1932.

MR. MCRUER: Nearly $18,000,000 in 1932, yes. Germany was a customer of Canada to the extent of $46,000,000 in 1929, and now it is down to $4,500,000. Italy was an important customer of Canada in 1929, by buying $22,000,000, and is down now to $2,000,000. This is the country with respect to which we have just had a ruling that the artificial silk yarn was within the dumping provisions. I am not challenging the ruling at all. I am challenging the duty of 28 cents a pound.

THE COMMISSIONER: Well, under what provision?

MR. MCRUER: Of the Customs Act. Some viscose yarn was being shipped in, and it was determined that the import price was lower --

THE COMMISSIONER: Than the home price?

MR. MCRUER: Than the home price.

THE COMMISSIONER: Well, that is the case where you put it back to the British --

MR. MCRUER: No, they applied the dumping duty and the 28 cents a pound.

MR. HOOPER: The value of the duty is the low market selling price.

THE COMMISSIONER: You ascertain the market selling price, of course.

MR. HOOPER: Yes.

THE COMMISSIONER: That would be the dumping?

MR. HOOPER: Yes, because the 28 cents a pound is not changed, because the value is so low

that the ad valorem has not become operative. The excess tax is on the highest duty.

(Page 19015 follows)

What I submit is that the 28 cents a pound ought to be lower so that we could trade with Italy on the basis of their home market selling price.

We have been over Japan before. The Netherlands were very important customers in 1929. We sold to them $44,000,000 worth of goods and that is now down to $9,400,000. That was another country from which we could buy rayon yarns and lower the cost of manufacturing rayon in Canada, at the same time stimulating our trade with the Netherlands. But this 28 cents a pound will not permit us to do that.

The United States, of course, as Your Lordship will see, next to Great Britain was the great customer of Canada in 1926. In 1930 the United States bought very considerably more from Canada than did Great Britain.

Mr. KELLOCK: It would have been more illuminating if the quantities had been given as well as the dollar values because there has been so much fluctuation in the dollar.

Mr. McRUER: I am comparing it with the sales in thesame year to Great Britain.

The COMMISSIONER: These are rayon sales.

Mr. KELLOCK: Yes. The physical volume, if it had been shown, might not have revealed this same disparity.

Mr. McRUER: Of course, one of the things I am demonstrating is the decline in the purchasing power of the Canadian people by reason of the value of

their sales abroad.

Mr. KELLOCK: That does not follow, because the purchasing power of the dollar goes up.

Mr. McRUER: That is all very well from your point of view, but you do not take the purchasing power of the dollar into consideration when you are calculating your dividends. I could argue that dividends were twice as large in 1936 as in previous years if I took that basis.

Mr. KELLOCK: Let us stick to this statement that is before us.

Mr. McRUER: All right. But you like to introduce one principle for one purpose and another principle for some other purpose. I want to be consistent. I am trying to get through by one o'clock and if my friends keep on referring back to old material in my brief which I have already disposed of I am afraid I shall not be able to do it and we shall have to come back on Monday.

Mr. HEWARD: There is no occasion to make threats of that sort. I might remind you that you had produced that information.

Mr. McRUER: Yes, but I am trying to concentrate on one particular thing if my friends will allow me to stick to it.

The COMMISSIONER: The fact remains that we have not the quantities on this sheet.

Mr. McRUER: No, and Mr. Kellock could have put in all the quantities he wanted.

Mr. WHITELEY: It would have been impossible to do so in dealing with the total trade.

The COMMISSIONER: You have pounds of yarn and various other items.

Mr. McRUER: In automobiles, for instance, you have not quantities; it is the number of cars.

Mr. KILLOCK: All I am saying is that the physical volume is a better guide where you have fluctuations in the value of the monetary unit.

Mr. McRUER: I do not agree with that at all. The people of Canada cannot buy textiles on the physical volume of the exports of Canada, but only on the value of those exports. That is the thing to consider. Now, in 1926 the imports from China were $305,000; in 1927 they were $356,000; in 1928 they were $357,000; in 1929 they were $357,000; and in 1930 they were $567,000.

The COMMISSIONER: What are those ?

Mr. McRUER: Those are imports of textiles.

The COMMISSIONER: They went up.

Mr. McRUER: Yes, slightly.

Mr. WHITELEY: That may be due to raw silk.

Mr. HOOPER: It is due to the rate of the Mexican dollar. Over there they use the Hong Kong dollar and the Mexican dollar.

Mr. McRUER: Well, we will try to get away from that as far as possible. The next sheet is a statement of imports into Canada for consumption of fibrous textiles and textile products. This statement shows

in the first place the marked decline there was from the United Kingdom of imports in the period from 1926 to 1931 and from 1932 to 1936. If we take the fiscal year ended March 31, 1931, we find that half of that year was under the lower tariff and half under the higher.

The COMMISSIONER: The lowest year of all was 1933.

Mr. McRUER: Yes, My Lord. Let us take France now. Our imports from France reached a high mark in 1928 of $12,300,000 and declined to the lowest point in 1936 when it was $1,283,000. Your Lordship will see where Japan stands. We ran from $6,000,000 to $8,000,000 during the period from 1926 to 1930, and since 1933 it has gone down until it is approximately half a million dollars.

So that there has been practically no importations of any importance in the last three years. Mr. Hooper tells me that raw silk has been about the same over a period, about $4,500,000. That is treated on another page.

Your Lordship will see that the total imports of textiles have declined from a high point of $204,000,000 in 1929 to $87,000,000 in 1936, and to the lowest point in 1933 of $60,000,000. It appears therefore that when we are dealing with the subject of external trade in this one group, the textile group, we have a decline from a high point to the low point of $144,000,000, and that is for the benefit

of a group of manufacturers who employ at the outside 2.49 of those gainfully employed in Canada. This is all textiles manufactured in Canada, and the figure is 2.49.

The COMMISSIONER: Does it include raw material ?

Mr. HEWARD: What was the $144,000,000 for ?

Mr. McRUER: That was between 1929 and 1933.

Mr. KELLOCK: I submit that your Lordship should have the figures of the total imports from these countries and not merely the imports of textiles, because we are comparing the Canadian exports of all commodities to those countries and when we are doing that I think we should have the total imports at the same time. Your Lordship will find that while the imports of textiles went down the imports of all other commodities also declined. I have the figures and will submit them to Your Lordship.

The COMMISSIONER: Have you the total imports, Mr. Hooper ?

Mr. HOOPER: I think so, My Lord.

Mr. KELLOCK: I have them here.

The COMMISSIONER: I was under the impression that we had them already. However, they can be added.

Mr. McRUER: We come now to sheet No. 3 which is a comparison of the value as between British and foreign countries of the importations into Canada of textiles and textile products, with the duties collected thereon. This is broken down as I think

it ought to be.

We have first the total imports. Let us take the non-dutiable imports. Your Lordship will see that they amounted to $67,318,000 in 1926 and declined to a low point in 1933 of $28,176,000. Between 1929 and 1936 the importations of non-dutiable goods amounted to 65 per cent of what they were at the start in 1929. The dutiable imports on the other hand are only 30 per cent of what they were in 1929. When therefore we talk about importations of textiles into Canada we have to consider first what the non-dutiable imports were and then take into consideration the dutiable imports. So that your Lordship will see that in 1929 there were imported into Canada $130,000,000 of dutiable imports and in 1936 that had shrunk to $38,000,000. Therefore these figures which my friend, Mr. Kellock, has given you showing importations into Canada of textile products deal with free products and we see that the dutiable imports have greatly declined.

Mr. KELLOCK: That is because part was transferred to the free list.

Mr. McRUER: Nothing of the kind; we shall come to that in a moment. It is no use making statements of that sort that are not backed up. The duties collected in 1929 amounted to $31,000,000.

The COMMISSIONER: More than that.

Mr. McRUER: Nearly $32,000,000 as against about $12,000,000 in 1936. In other words, the duties

collected, the revenue the country got, amounted to only 35 per cent of what it was in 1929.

Next is the percentage of duties collected to dutiable imports, and this constitutes a very interesting study inasmuch as it shows that the textiles did not come in from the countries where the higher rates of duty prevailed. I will show that in a moment. The percentage amounted to 23.2 in 1926 and 36 per cent in 1932.

That figure is quoted by some in a very misleading way. They say, "Look at your percentage of duty paid on goods that come in and you will find that it does not amount to more than 30 per cent of all the goods that come in." But we find that only 35 per cent of the goods are coming in that came in in 1929, and goods are not flowing over the dam on the high spots, with the result that the average percentage is kept down. If the goods do not come and pay the duty then the average rate of duty is away down. If you have only $100,000 coming in and paying 60 per cent duty, whereas you have a million dollars worth of goods coming in under the items that are 20 per cent, then you reduce the average away down.

It will be recalled that in the years 1932 and 1933, or a year earlier than that--perhaps it was in 1931--there was a special valuation of the pound sterling.

Now we come to the next division and that shows

the imports from the United Kingdom. These have declined from $77,000,000 in 1929 to $40,000,000 in 1936, the lowest point being in 1933, $25,000,000. That is all textiles, both dutiable and non-dutiable. The non-dutiable textiles were $15,576,000 in 1929 and $15,210,000 in 1936. But Your Lordship will recollect that a great deal of that is raw material for the manufacture of textiles here wool tops and articles of that sort. The dutiable imports from the United Kingdom in 1929 were $61,000,000 and in 1936, $25,000,000.

Mr. KELLOCK: I was pointing out that the portion of non-dutiable imports in 1936 was much heavier than in 1926.

Mr. McRUER: There is more wool coming in. Do you want us to exclude your raw material ? The duties collected amounted to $12,455,000 in 1929 and declined in 1933 to $5,562,000, and in ~~192~~ 1936 the figure was $7,166,000. It will be seen that the percentage of duty collected on dutiable imports in up in 1936 by about 40 per cent over what it was in 1929--that is, 20.3 to 28.2. In 1935 it was 29.3.

Mr. KELLOCK: That is 8 per cent.

Mr. Mc RUER: No, about 40 per cent; it is 8 on 100. We have next the British countries shown in the next table, and we do not propose to go through that in detail except to indicate the percentage of duty during the years 1932, 1933, 1934, 1935, 1936, collected on the dutiable imports from these other British countries, running as high as 35.7 per cent in

1932 and 32.9 per cent in 1936.

With regard to the United States, let us take all the textiles first. In 1929 they amounted to $81,000,000, and this declined to the low point in 1933 of $22,000,000, and in 1935 it was $32,000,000. In the non-dutiable imports the decline was from $48,000,000 to $25,000,000, and I presume that most of that would be raw cotton. We have a figure as low as $16,000,000, which was accounted for by the drop in the price of raw cotton to a large extent.

When we come to the dutiable imports, the decline is from $33,000,000 in 1929 to $6,977,000 in 1936. It was only 20 per cent in 1936 of what it had been in 1929. The duties collected were down from $9,913,000 to $2,626,000, and Your Lordship will see the very high rates that prevailed from 1930 to 1936. In 1936 we have as high as 37.6 per cent. Of course, that would only have three months of the benefit of the Canada-United States agreement.

Other foreign countries are shown and analyzed in the same manner. Sheet No. 4 is a comparison of values as between divisions of the textile industry, and I do not propose to go through these in detail. It shows the imports and what they are. We show the raw materials. This one does not break down our raw materials, I was mistaken. This shows different classifications under cotton, silk, artificial silk, etc. Your Lordship will notice in the last division at the bottom of the page the duties collected in

respect to these particular types of textiles. Let us take for instance artificial silk and its products. In the year 1931 there was collected $3,440,000. In the year ended March 31, 1936, there was collected $944,000.

Now we come to Sheet No. 5, which shows the imports of cotton and its products. The cotton imports show the non-dutiable ones as well as the dutiable imports, duties collected, and the percentage of duties to dutiable imports. Then it is further broken down between United Kingdom, other British countries, the United States and other foreign countries, so that it gives a complete analysis of the imports situation in regard to cotton goods.

Now we come to Sheet No. 6, and this gives an analysis both in respect to the value and pounds of duty, so that we have set at rest in this sheet all arguments in respect to the particular character of the free imports of textiles into Canada. It will show whether or not they are raw materials for the textile industry in Canada or raw materials that compete with products of the textile industry in this country.

The suggestion was made that there were some imports into Canada of these free goods that went direct to the retailers in Canada. In respect to this class I am instructed that the fabrics of hundreds and finer may be dealt with in that way.

The COMMISSIONER: Did these fabrics go to the retail business ?

Mr. McRUER: They might go direct to the retail business, but Your Lordship will see in 1936 it only amounted to $425,000.

The COMMISSIONER: Is this the only class of that nature that goes to the retailer ?

Mr. HEWARD: Yes.

The COMMISSIONER: The rest are raw material ?

Mr. HOOPER: Yes, My Lord.

Mr. McRUER: When Mr. Kellock was suggesting thatthe increase in importations of free goods was to be explained by the transfer of certain items to the free list, I say that we have the whole picture here--

Mr. KELLOCK: That is the cotton.

Mr. McRUER: We have the whole picture here as to the imports on the free list in connection with the cotton industry.

Sheet No. 7 deals with dutiable imports, cotton and its products. I do not need to go through that in detail. It is the yarns of the different types, the cotton fabrics, and that is all broken down into the individual items. As to the dutiable imports, Your Lordship will see that the drop from 1929 to 1936 is from $19,362,000 to $7,924,000--that is on cotton fabrics. There are three different groups when we come to the drop in yarns. In the first group it is $333,000 to $194,000; in the next group,

which comprises sewing thread--

The COMMISSIONER: Was it $333,000 in 1929 ?

Mr. McRUER: Yes.

The COMMISSIONER: And that went to $194,000 ?

Mr. McRUER: Yes, in 1936. In the sewing thread group there is a drop from $1,118,000 to $582,000, and in the next group there is a drop from $374,000 to $160,000 between 1929 and 1936. Then we come to the dutiable fabrics, and this is important in studying this aspect of the matter. The drop is from $19,362,000 to $7,900,000. Your Lordship may notice some of the items in the lower category, socks and stockings for instance. The drop from 1929, $731,000 was to $3,000 in 1936.

The COMMISSIONER: Gloves seem to wander curiously here.

Mr. HOOPER: That would come under the mixed textile products in 1929.

Mr. McRUER: There was a different classification for them in 1931.

The COMMISSIONER; They were somewhere else before ?

Mr. Mc RUER: Yes.

The COMMISSIONER: Like Mr. Heward's equipment, there were somewhere else.

Mr. McRUER: Now we come to sheet No. 8 which is a breakdown of dutiable imports, showing the different countries. We have the United Kingdom, the United States and other foreign countries. I

submit that we cannot take too seriously the statements that are made about so many million yards of fabric being brought in. For instance, under cotton fabrics my friend was making some statement about 75,000,000 yards that had been brought in from the United Kingdom, but I am told that a great builk of this is very like gauze, it is not fabrics such as you wear, but very light gauze that is brought in for surgical dressings and things of that sort.

Mr. KELLOCK: Do you say the great bulk?

Mr. McRUER: I say a great bulk of it. You can run up an awful lot of yards when you are dealing with a very light material of that sort. It is like talking about the number of yards of toilet paper as compared with the number of yards of newsprint. You must have regard for the type of fabric you are dealing with.

Mr. KELLOCK: Well, let us have the details.

Mr. McRUER: You made a round statement.

Mr. KELLOCK: And you are making a round statement now.

Mr. HOOPER: The figure is 25,000,000 yards.

Mr. KELLOCK: Linear yards ?

Mr. HOOPER: Yes.

Mr. KELLOCK: In what year ?

Mr. HOOPER: In 1934, 1935 and 1936. The figure might vary a little in the different years, but it is around that.

Mr. KELLOCK: From what country ?

Mr. HOOPER: It came in from the United Kingdom and from the United States in 1933 and 1934.

Mr. McRUER: I do not think I need go further into details in connection with this statement. It is very comprehensive and I suggest that it be taken in comparison with the general statements put forward in my friend Mr. Kellock's brief in reference to importations in quantities of yards, etc. This shows exactly how they have come and where they have come from.

Mr. KELLOCK: With regard to the surgical dressings would they be grey or bleached ?

Mr. HOOPER: There would be 20,000,000 in grey and 5,000,000 in bleached.

Mr. McRUER: Sheet No. 9 I pass over without further comment. It deals with flax, hemp and jute. The same with regard to Sheets No. 10 and No. 11. Of course, we have to remember, in connection with the flax, hemp and jute products that when general statements are made about the importations of textiles and textile products, these come within the classification of textiles; and in regard to the duty-free articles, Sheet No. 10 shows that jute fabrics for instance form quite a large part of them.

Then we have linen goods. They amount to $2,041,000. Now we come to the imports of silk and its products, Sheet No. 12. Again, this is dealt with in the same way as Mr. Hooper dealt with cotton and its products. We have total imports, non-dutiable

imports, and dutiable imports, and we find that from 1929 to 1936 the dutiable imports fropped from $22,900,000 to $2,874,000. The duty collected dropped from $6,500,000 to $887,000.

These are the people who say, "We had not sufficient protection; we had not made enough money during the depression," although we have a complete record of what the silk people made. There is no doubt about it, it is quite clear that they had the field to themselves. The percentage of duty collected on those that came in ran as high in 1932 as 37 per cent. We have them broken down--the United Kingdom, other British countries, and the United States--and I do not need to go over the details of these figures. We have the composition of the duty-free products and this shows that the duty-free products were composed almost entirely of raw silk.

The COMMISSIONER: Raw silk is free ?

Mr. McRUER: Yes, My Lord, except for the excise tax.

The COMMISSIONER: Then it is not free.

Mr. McRUER: There is an excise duty on all imports,

The COMMISSIONER: What is the excise tax?

Mr. McRUER: It is 3 per cent.

The COMMISSIONER: Ad valorem ?

Mr. McRUER: Yes.

The COMMISSIONER: Well, it is an import tax. At any rate it is a charge.

Mr. McRUER: Yes, but although it is an import

tax it is also levied on any fabricated material that is imported in competition with the material they make.

The COMMISSIONER: Is it levied on everything ?

Mr. McRUER: On everything imported from any country except Great Britain.

The COMMISSIONER: Do all the goods shown on the other sheets pay this 3 per cent ?

Mr. HOOPER: Except those from Great Britain.

The COMMISSIONER: So that the only real free goods are those from Great Britain ?

Mr. HOOPER: Yes. But in addition to the duty shown on the dutiable goods you have the added 3 per cent.

Mr. McRUER: As I pointed out in my argument the 3 per cent is levied on the duty-paid value, so that when you have dutiable goods, if the duty is 50 per cent it is 4 1-2 per cent.

Now the next sheet, No. 14, is a further breakdown of dutiable imports in connection with silk and its products, and Your Lordship will see that silk cloth, for instance, has dropped from $3,900,000 in 1929, to $12,000 in 1936. We have it all broken down in the other items.

From the United States the decline was from $6,200,000 in 1930 to $1,188,000 in 1936. Mr. Hooper says that silk fabrics for neckties shown there are not made in Canada.

The next, Sheet No. 15, deals with wool and its

products in the same way. First we have the dutiable imports, the non-dutiable imports and the total imports. Your Lordship will see that the dutiable imports dropped from $40,000,000 in 1929 to $9,000,000 odd in 1933. And in 1936 it was $13,234,000. The duties collected dropped from $9,779,000 in 1929 to $4,661,000 in 1936, the low point being 1933 with $3,707,000.

The COMMISSIONER: The rate went up ?

Mr. McRUER: Yes, and Your Lordship will see under the United Kingdom group that the dutiable imports dropped from $31,000,000 in 1929 to $12,215,000 in 1936. You will see just how the rate went up on the importations from Great Britain; and with the alleged British preference from 1932 the actual rate paid on all these dutiable imports amounted to 38.5 per cent.

The COMMISSIONER: That means the fiscal year ended March 31, 1932.

Mr. McRUER: Yes, and even in 1936 it was 50 per cent above what it had been in 1929-30.

(19035 follows)

In regard to the other countries the volume of dutiable imports in woollen goods dropped in the United States from $2,055,271,000. Then we have the composition of the duty free imports of wool and its products. This shows exactly the type of woollen products that come in duty free, so as to set at rest any general statements in regard to the transfer of items to the free list and that sort of thing, we say just exactly what the articles are and the quantities that come in duty free.

THE COMMISSIONER: Those are all raw materials, are they?

MR. MCRUER: Yes. Insee billiard cloth on there. That is not a raw material.

MR. KELLOCK: Fabrics inthe grey.

MR. MCRUER: Well, they don't amount to very much, the four ounce fabrics in the grey: are they made in Canada?

MR. KELLOCK: Not now.

MR. MCRUER: Do you suggest that they were made in Canada before this was brought in?

MR. KELLOCK: There was some evidence, as I recall, that this was made in Canada.

MR. MCRUER: At any rate we have notheard very much about them, and I guess the companies are getting along not too badly just now without making those. Now we come to the dutiable imports, wool and its products, and this shows exactly what they consist of, the quantities.

THE COMMISSIONER: I see that some things that you call Italian linings are free, on one sheet, and Italian linings are dutiable on another sheet.

MR. HOOPER: Yes my lord, they were made free in 1932, October 1932. At one time they were quite an item.

THE COMMISSIONER: I understand now. And your corresponding blanks are on the other sheet?

MR. HOOPER: Yes my lord.

MR. MCRUER: Your lordship will notice with respect to the dutiable imports that there has been a marked decline in the yarns. There has been a decline in the fabrics in the grey. Now those are both raw materials, so to speak. The yarns are raw materials for the weavers; the fabrics in the grey are raw material for the converters like Mr. Robinson -- or for the dyers; Mr. Robinson is entirely in cotton. It is the same principle at any rate. Are these fabrics in grey made in Canada?

MR. HOOPER: No.

MR. MCRUER: So that there would be a diversion of the trade from the people that bought from the dyers, who imported, to the Canadian mills. They would have to go to the Canadian mills for their supplies.

MR. HOOPER: They would have to bring them in anyway and pay duty.

MR. MCRUER: They do not seem to have brought in so many.

MR. HOOPER: They are paying duty.

MR. MCRUER: Well that is all quite clear. The artificial silk and its products, the total imports have declined from 1930, $18,479,000 to $1,945,000, and curiously enough, 1936, the year that started all the trouble in the artificial silk industry, shows the low point of importations of supplies of artificial silk and its products.

THE COMMISSIONER: Again, that means the year ended March 31.

MR. MCRUER: March 31, 1936. Three months of that, though.

THE COMMISSIONER: You do not bring this down beyond March 1936, do you?

MR. MCRUER: Your lordship will see the percentage of duties collected on these artificial silk fabrics, and that might account to a certain extent why the industry was a bit finicky about any tampering with the duties on artificial silk fabrics. In 1926 it was 18.8 per cent, with $5,100,000 importations. In 1927, it was 21.5 per cent; 1928, 22.4 per cent; 1929, 24. per cent; 1930, 25.6 per cent with $15,400,000 importations; 1931, 31.8 per cent; 1932, 38.9 per cent; 1933, 50.1 per cent; 1934, 47.9 per cent; 1935, 46.9 per cent; 1936, 49.4 per cent so that it has got the price so far for high rates of duty actually paid by the Canadian consumers.

MR. HEWARD: The percentages are calculated on the invoice values.

MR. MCRUER: On the duty paid value. Those are the duties actually collected. The dutiable imports.

MR. HEWARD: But I say it is on the invoice value you are calculating the percentage; is that right?

THE COMMISSIONER: It depends on what you base your total imports. When you say in 1936 you had $1,945,000 of total imports --

MR. HOOPER: That is on the fair market value.

THE COMMISSIONER: Well, was the 49.4 per cent on that value?

MR. HOOPER: Yes my lord.

MR. MCRUER: Now we come to the United Kingdom, imports from the United Kingdom, and your lordship will see how they have dropped from 1932, $5,099,000 to $892,000, and the duties collected show a drop from $1,100,000 to $341,000.

THE COMMISSIONER: $1,001,000.

MR. MCRUER: From $1,001,000 to $341,000. The rates of duty, your lordship will see, run from 1932 to 1936, from 39.8 per cent to 44.3 per cent.

THE COMMISSIONER: In 1930 it was 18.5 per cent. Now it is 39.8 per cent. When I say "now" I mean in 1936.

MR. MCRUER: In 1936. In respect to the United States your lordship will see that in 1930 we

collected $1,000,000 worth of duty, customs duty, on the importation from the United States; and for the year ending March 31, 1936, of $365,000. Again your lordship will see the very high rates, that they run as high as 59.4 per cent from the United States. Then we get to the other foreign countries, and we find that in 1936 they ran as high as 81 per cent. So the artificial silk industry seems to have been fairly well protected. It is noton the free list yet.

MR. KELLOCK: That sheet 18 includes both yarns and fabrics, does it not?

MR. HOOPER: Includes everything.

THE COMMISSIONER: Total imports.

MR. HOOPER: Total imports of artificial silk.

MR. MCRUER: The yarns do not amount to much. You could have them taken off if you wish. The next page, 19, I do not think we will dwell on. Page 20, this shows the breakdown now of artificial silk and its products, showing the yarns, fabrics and other products, the amounts of duty collected.

MR. KELLOCK: Yarns, about a third of the total.

MR. MCRUER: In 1930 the importations of yarn amounted to $1,678,000, and in 1936 to $635,000; and the fabrics over twelve inches, $9,508,000, and now $864,000. So if yarns are one-third of the total the total does not amount to much. All others,

will that be the fabrics under twelve inches, and ribbons, and all things of that sort?

MR. HOOPER: Yes.

MR. MCRUER: The drop is from $2,220,000 to $411,000. Now we have the countries they came from, no not all. In 1930 we imported $1,000,000 worth from the Netherlands, and now we import $116,000; from France, $1,560,000, and now $122,000; Switzerland, $1,139,000, reduced to $90,000; Japan, $168,000 in 1930 and $65,000 in 1936.

Sheet number 21, deals with other textile fibres and their products. This first sheet deals with them collectively, and sheet number 22 breaks them down. First we have the duty free textiles, showing what they are.

THE COMMISSIONER: What is meant by "fibres and grasses"?

MR. WHITELEY: Hat material.

MR. MCRUER: Straw for hats and things of that sort.

MR. WHITELEY: Sisal.

MR. MCRUER: Sheet number 23, deals in the same way with the mixed textile fabric imports, and also sheets number 24 and 25. In that respect we have a most careful and comprehensive statement --

THE COMMISSIONER: You have not put it in yet?

EXHIBIT No.1279: Comparative statement indicative of the influence of the domestic textile trade and relative tariff policies on Canada's general export trade.

MR. MCRUER: -- a most careful and comprehensive statement of the whole textile trade. My friend Mr. Pellock has put in certain summaries which I think cannot be taken without the analysis that is shown by this tatement. The statement is an extremely creditable production of Mr. Hooper, and is of great assistance in studying the effect of the textile trade on our general export trade.

THE COMMISSIONER: I think we might get a few moments off now.

Proceedings were resumed at 12.10 p.m.

MR. MCRUER: Now my lord, I have dealt briefly, by as comprehensively as time will permit, with the external trade of Canada, with the effect that the depression has had on our exporters, with the decline in purchasing power of the consumer in Canada, the number of people that have been on relief and have had practically no purchasing power. We have had the record of the earnings of the textile industry, not only the earnings that they had in the depressionbut the earnings they have had on the capital that was created over and above the returns they have made, many of them very very high, on the production they have had throughout the depression. But notwithstanding all this, they have put before the commission through their counsel the claim that they have had insufficient remuneration, that the protection has not been sufficient to adequately

protect their investment. More than that, they have put before the commission that in addition to the benefits they have had by reason of the protective tariff, they have claimed the right to organize among themselves in restraint of competition and they ask that in addition to a law that will exclude foreign competition so as to practically leave the field for themselves -- and they have had a law that excluded foreign competition to such an extent as to almost leave the field to them -- they also stated "We have the right, if there are too many in our field, if competition gets too keen, to make the business profitable for each one of us, we may agree together in restraint of domestic competition, and the agreements we have made are justified because we did not make enough profit during this depression period". And that is the sole ground on which they seek to justify their action.

Now I want to analyze for a moment the contention as Mr. Kellock has put it. I am not going into individual cases but I will deal with the broad question of the principle.

MR. KELLOCK: That is not my argument at all, if that is what you think you are stating.

MR. MC UER: That is the principle of the argument put forward. In the second brief that Mr. Kellock filed he attempted to support the Hosiery agreement on the ground that the profits were not

excessive.

THE COMMISSIONER: Pardon me: what page are you referring to?

MR. MCRUER: Page 4 of the hosiery section, of the second brief. And he pointed in his argument to the earnings that were made by the remainder of the hosiery division after he took out two of the biggest producers of full-fashioned hosiery who were in the agreement. Now that was a kind of fanciful way of approaching it. Referring to page 4:

"Did the industry unduly profit?

Taken by years the net profit as a percentage on sales in the auditor's sample was as follows:"

Net profit after bond interest and income tax; he takes out bond interest and income tax and says, what is the net profit left for us? That of course is a wrong basis of calculation.

THE COMMISSIONER: Well, he puts bondholders in a different class from shareholders.

MR. MCRUER: Yes, on this table. Then he goes on:

"What did shareholders make?

The net profits on shareholders' equity of the commission auditor's sample are set out for the ten year period as follows:"

And then he sets out what was the earning on the common stock equity, irrespective of how the common stock equity was created.

MR. KELLOCK: That is not common stock. That

is all classes of shareholders.

MR. MCRUER: "The net profits on shareholders' equity". That means irrespective of how the shareholders' equity was created.

THE COMMISSIONER: That means preferred, too?

MR. MCRUER: Yes. Let us go to Canadian Silk Products. The company is one of the most active proponents of this agreement and was most vigilant in seeing that the other companies lived up to it. See page 237 of my brief. In 1924 $48,375 was invested in this company, for which 450 shares of $100 each and 375 shares of no par value common stock were issued. That was all the investment in this company. The rest was created out of the profits that the company made. Down to the date of the investigation the total net earnings of the company amounted to $2,159,330. They drew out in dividends $926,000 on the $48,000 invested, and $1,267,000 remained as undistributed surplus. They have redeemed all their preferred stock and they wrote off $150,000 for loss on investments as well. And on that capital created in that manner, the earnings during the depression period were, on the capital ~~created in that manner~~ employed in operations during the depression period: 1931, 37.4 per cent; 1932, 40.3 per cent; 1933, 32.6 per cent; 1934, 23.3 per cent; 1935, 19.5 per cent.

MR. KELLOCK: Those are your figures.

MR. MCRUER: My figures! They are the

percentage of that revenue to capital employed, the earnings on that capital. I do resent that sort of thing. Those are your figures. We have heard them throughout this investigation. My friend knows the figures are correct, yet he says "These are your figures", in true police court manner. I am sick and tired of it.

MR. KELLOCK: My friend recognizes the police court manner, or represents it, much more than I do. I am sure my friend lacks nothing as far as that manner is concerned.

MR. MCRUER: I recognize the type, and I am tired of hearing such statements in this investigation from that quarter.

MR. KELLOCK: I am speaking about your basis, Mr. McRuer.

MR. MCRUER: Then you might say "The basis" instead of "the figures".

MR. KELLOCK: I am quite satisfied to correct it.

MR. MCRUER: The basis has been ruled by the Commissioner to be the correct basis.

MR. KELLOCK: I understand his lordship to say that he had not decided that that was the correct basis.

THE COMMISSIONER: I am taking both bases.

MR. MCRUER: Take the basis of the capital employed in the industry, the capital that the consumers made for these people; that is what the return is on it;

and my friend Mr. Howard agrees with me at least, that it is the true and scientific basis on which to calculate it.

MR. HEWARD: The value of the investment.

MR. MCRUER: That is the value of the investment in the business, that is the whole thing. We come to that, and my friend stoops to justify the participation of the Canadian Silk Products in the hosiery agreements on the ground of the destitution of the company and that the company must be kept in existence and would go out of existence if it was not for this agreement that they had not to compete. That is the ground that is entirely untenable. Now I do not intend to go all through the history of these companies. The hosiery division all across showed an earning from 1931 to 1935 on the capital employed in the industry, irrespective of how it was created, of 7.2 per cent in 1931, 5.5 per cent in1932, 6 per cent in 1933, 7 per cent in 1934, 8.9 per cent in 1935,.

Then my friend sought to justify the participation of Penmans Limited, for instance, in the underwear agreement and in the children's sleepers ~~garments-on-the~~ agreement on the ground that it was necessary for this poor company to make a return on the capital invested in the business or make a return to its shareholders; and see what the shareholders got out of it. I am presenting it from the point of view of the consumers. These acts that have been passed,

section 498 of the Criminal Code, and the Combines Act, are passed for the very purpose of protecting the consumers against industries getting together behind a tariff wall and agreeing that they will not compete with one another. It applies to all industries, but, as has been judicially observed at different times, where you have a tariff protection it is a very necessary protection to the consumers. Personally, if the protective tariff was abolished I think the Combines Act would not be very hard to administer because you would not need to worry very much, but where you have protective tariffs on articles like hosiery that are such as exclude foreign competition, and then have the members of the industry, irrespective of how many may desire to get into it, get together on an agreement, irrespective of what management they give their companies, that, "we will maintain a price", then they take in their own hands the full power of taxation on the consumer up to the limit of the prohibitory tariff. That such an agrreement is likely, at least, to operate to the detriment of the people is, I would say, perfectly patent because there was no other purpose of their getting together, but the restraint of competition, that is, to get to themselves more profits that they were making under competitive conditions such as existed, and these profits could only come from the poor consumer, who could not go to any other body to buy

the goods.

I would almost say that there is probably nothing more disgraceful shown in this enquiry than that the members of this industry that went to the government in 1930 and asked for a tariff of the character that they did ask for, and got in every instance almost what they asked for, should proceed at once to organize a whole chain of price fixing arrangements so that they would not compete among themselves in the field that was given to them by the parliament of Canada.

19049 follows

In respect to these arrangements we are not called upon to pass upon their criminality or otherwise, but they are such as to require the most careful scrutiny; and all I have suggested is that the evidence that has been brought out here, be referred to the proper officials whose duty it is to investigate and look into these matters when they come to the attention of the government. For instance, the principle is so vicious and so wrong that we should have a protective tariff that denies the consumer the right to buy abroad and at the same time admit the right of the members of this industry to sit together around a table and decide what the consumer shall pay, regardless of their respective abilities to produce in large quantities, their respective abilities to produce at low prices and their respective abilities to merchandise along efficient lines.

Mr. Thompson of the Canadian Silk Products, and the Kayser Company were evidently able to merchandise and sell their products so as to give them a very high return. Other companies did not seem to make such high returns, but surely we are not here for the purpose of providing everyone who wants to go into the full-fashioned hosiery business or the underwear business, or any other business with a return on the money he likes to put into it. They admit the principle of encouraging people to come in, and after they come in they want to be permitted to combine in order to strengthen their hand and

get the most they can from the consumer.

Mr. Kellock has devoted a section of his brief to the consumer and he spoke with a certain degree of contempt of the fact that I pretended to represent the consumer. I am willing to admit that I conceive it to be part of my duty to discharge a certain responsibility to the consumers and to all others in Canada who are affected by the outcome of this very important inquiry.

At page one of Section I, Mr. Kellock deals with the consumer in this way:

> "There has been no computation placed before the commission as to the total cost in dollars and cents to the consumer of any tariff rate. There is no evidence that prices of textiles in Canada are out of line with prices of other commodities and services. There is, however, evidence showing that the presence in Canada of the textile industry has an effect in keeping down the cost to the ultimate consumer of the imported article by reason of the competition furnished by the domestic industry to imported goods. It is clear from the evidence that the distributor expects and obtains wherever possible a higher mark-up on imported goods than on goods which have been produced in Canada, and the presence of the competition furnished by the domestic industry has a limiting effect on the cost of the imported goods to the ultimate consumer

I do not know exactly what evidence it is that Mr. Kellock refers to, but I suggest it is not a justification of the maintenance of the textile industry in Canada that it is required here to prevent foreign manufacturers from exploiting the Canadian consumer by charging too high prices. It is suggested that they keep down the cost of foreign articles and make the foreigner sell his articles cheaper in Canada, after we have maintained a tariff wall to build up an industry to protect Canadian consumers from being overcharged by the foreign manufacturer. That is another argument that makes me a bit dizzy, because, if we maintain the tariff we raise the price of the foreign article to begin with and the consumer pays.

Mr. Kellock said that these industries would be necessary even if we did not have a tariff. I thought that the great complaint was that the Japanese could sell at less than cost of manufacture in Canada, that the British wanted to dump their goods into Canada, that other countries wanted to unload their surplus goods here, and that we would get them at these very low costs.

If at some time in the future the world becomes so harmonious that the Japanese, the Germans, the Italians, the French, the Belgians and the British all get together, and their manufacturers agree upon cartels so as to charge the Canadian consumer whatever prices they like, then there may be a danger of the Canadian consumer being exploited at that time. But

that harmonious condition does not prevail in the world at the present time, so that as regards maintaining industry here as a protection to the consumer I am afraid it can hardly be logically maintained.

My friend suggests that there is a larger mark-up on laid-down imported goods here than there is on domestic produce. Well, Your Lordship will recollect that the number of people engaged in trade in Canada is about three times as great as the number engaged in the textile industry, so that if they can get a larger mark-up on the imported goods a number of people working in the textile industry will go into the trade and become retailers. They would probably go into the trade and find it more satisfactory than working ten hours a day in textile mills.

The argument that is put forward that the textile industry is necessary for the maintenance of employment entirely loses sight of the fact that if you import goods employment is still given to others, employment of another sort. If you promote trade with another country, the few millions paid by the textile industry may mean very little compared with a few hundred million dollars that go to the Canadian producers and which would make new jobs for other people.

As a matter of fact, economists are of the opinion that the depth into which Canada got in the depression was due to the business of the country being too much localized.

There is one memorandum which should be put in my brief in connection with some figures at page 178 and on which Mr. Glassco and Mr. Howson have agreed to within $100,000. But for that difference they are in agreement on the figures.

Mr. HEWARD: It is true that they are in agreement with a net difference of about $880,000, which is neither here nor there with figures of this magnitude. But in the statement it says, "For repairs and betterments, $4,290,250.13". I am instructed that the account was repairs, not repairs and betterments. It seems to be prejudging the matter to include betterments.

Mr. McRUER: Suppose we put a query after betterments ?

Mr. HEWARD: That is not the way it is entered in our books. It is repairs. As it stands there it seems to prejudge the argument.

The COMMISSIONER: What you have handed in is a substitution for the second paragraph.

Mr. McRUER: For the table that appears there. Now, Mr. Lord, I think that concludes what I have to say in reply to the arguments that have been presented. I have not gone through them in detail by any means. If there are some things that I have not dwelt on it is not because I am adopting what has been suggested during the course of the argument. There were a great many interruptions which probably were more or less vexatious to counsel, but which at the same time

has had the effect of giving counsel an opportunity to make what observations they wished to make in reply, and these appear on the record as we go through it.

This, now, seems to conclude the task of counsel in this inquiry, but it does not conclude the very important task that still devolves upon the commissioner, which task I am sure all counsel feel is an extremely heavy one.

This has been a long inquiry, and as I said at the opening of my argument, and I repeat now, I am sure we all greatly appreciate the patience of Your Lordship and the thoroughness with which Your Lordship has followed all the evidence that has been submitted.

Personally, I am greatly appreciative of all the technical staff, and the secretarial staff supplied to the commission. I do not believe that the public of Canada could have been better served than they have been by the experts and the secretarial staff who have been at the service of this commission.

And may I say this. I think the evidence that has been collected is of great national importance. I wish also to conclude with an experssion of great appreciation of the cooperation that we have had from council throughout. Although in the heat of argument our tongues got sharp sometimes, that is not very deep, and we forget about these things as

soon as we leave. But all counsel have applied themselves with great diligence to the task they have had before them. I am sure they have done what they could to serve their respective clients. We have had most pleasant cooperation notwithstanding what we may have said to one another occasionally.

Mr. KELLOCK: I accept your apology.

Mr. McRUER: If my friend thinks there is anything I should apologize for, I apologize.

Mr. KELLOCK: I do not feel that way.

Mr. McRUER: The work of the commission has been onerous and I am sure we are all happy to bring it to a close in this friendly spirit.

Mr. KELLOCK: There is just one matter I wish to refer to. While I was dealing with Paragraph 48 of Section G of my Factum, which deals with the production of Japanese pulp Your Lordship asked whether I had anything more specific than was there given and I promised to let you have it.

The COMMISSIONER: Where does it appear in the brief ?

Mr. KELLOCK: It is on page 18, paragraph 48:

"Japan produces bulk of its needs in pulp and chemicals. The evidence shows that Japan is dependent upon foreign supply for only a portion of the pulp required in the manufacture of rayon, and that it is approaching the point where it will be independent of foreign supplies. With regard to pulp and chemicals the most

authoritative discussion of the subject I have been able to find appears in a short paper by Mr. Monte, who is one of the trade commissioners in Tokio, Japan. It is a government publication.

The COMMISSIONER: The Canadian government ?

Mr. KELLOCK: Yes, My Lord. I hand it in with your permission.

The COMMISSIONER: Will that be the last exhibit?

Mr. HOOPER: No, My Lord, I have another one.

Mr. KELLOCK: I have already expressed my own appreciation of Your Lordship's patient and careful hearing.

The COMMISSIONER: I wish to say, gentlemen, that while this argument has been very long and necessarily so, in view of the great volume of evidence that has been brought forward, and which was subdivided under so many different headings, with so many ramifications, I feel that I have received all the help that counsel could possibly give me, and counsel, I find, have been very zealous throughout, hard-working, and painstaking, and have displayed great ability. That is all to the good so far as I am concerned. I agree with what has been said with regard to the service rendered by the staff Mr. Whiteley and all the others whom I need not mention by name. I feel that everyone connected with the commission has devoted himself earnestly and to the utmost of his capacity to make the investigation a thorough one and to render my load all

the easier. It is, therefore, with a feeling of gratitude and satisfaction that I bring this public portion of the inquiry to a close.

I have from you, Mr. Kellock, this latest exhibit, which will be no. 1380.

EXHIBIT NO. 1380 : Government publication on pulp and chemicals.

Mr. HEWARD: Your Lordship suggested that I should attempt to draft an amendment to section 55. I was working on that last week.

The COMMISSIONER: There is no hurry about that.

Mr. HEWARD: I will send it to Your Lordship as soon as it is ready.

The COMMISSIONER: That is all right. It will be some time before the report is ready.

Mr. McRUER: I have nothing more to hand in now. Mr. Hooper has one or two other matters to complete; they are not altogether new matters. There are some details in regard to comparative prices of cloth.

The COMMISSIONER: They are not ready to-day?

Mr. McRUER: No.

And the Commission concluded at 12.30 p.m.